N. J., F. D. 24001–24025

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United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

24001–24025

[Approved by the Acting Secretary of Agriculture, Washington, D. C., September 16, 1935]

24001. Adulteration of apples. U. S. v. 46 Bushels and 78 Crates of Apples. Default decrees of condemnation and destruction. (F. & D. nos. 35920, 35118. Sample nos. 25005–B, 25013–B.)

Examination of the apples involved in these cases showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 25 and 29, 1934, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 46 bushels and 78 crates of apples at Joliet, Ill., alleging that the article had been transported in interstate commerce on or about October 21 and 22, 1934, by the Kristal Fruit Co., from Glenn, Mich., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled in part: "Will Hamlin Glenn Mich King."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On December 17 and 20, 1934, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24002. Adulteration of apples. U. S. v. 14 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 35075. Sample no. 24892–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 8, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 14 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 4, 1934, by Wm. Hamlin, from Glenn, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Will Hamlin Glenn, Mich., Greening."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On December 17, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24003. Adulteration of apples. U. S. v. 21 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 35083. Sample no. 24883–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 6, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 21 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 26, 1934, by H. C. Berndt, from St. Joseph, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On December 17, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24004. Adulteration of apples. U. S. v. 262 Bushels of Apples. Consent decree of condemnation. Product released under bond for removal of deleterious substances. (F. & D. no. 35084. Sample no. 24941–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On or about November 26, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 262 bushels of apples at Chicago, Ill., alleging that the article had been transported in interstate commerce on or about October 9, 1934, by Rosenthal & Stockfish, from Lawrence, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Packed by Rosenthal & Stockfish Chicago Ills. Jonathan."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On December 17, 1934, Rosenthal & Stockfish, Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the apples be released under bond, conditioned that they be washed to remove the deleterious substances.

M. L. Wilson, *Acting Secretary of Agriculture.*

24005. Adulteration of apples. U. S. v. 296 Bushels of Apples. Consent decree of condemnation. Product released under bond for removal of deleterious substances. (F. & D. no. 35086. Sample nos. 1961–B, 1967–B, 1969–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On or about December 12, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 296 bushels of apples at Chicago, Ill., alleging that the article had been transported in interstate commerce in various shipments on or about October 1, October 8, and October 12, 1934, by the Aurora Fruit Co., in part from Fennville, Mich., and in part from Ganges, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 8, 1935, the Aurora Fruit Co., Aurora, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the apples be released under bond, conditioned that they be washed to remove the deleterious substances.

M. L. Wilson, *Acting Secretary of Agriculture.*

24006. Adulteration of apples. U. S. v. 21 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 35087. Sample no. 25375–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 30, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 21 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 21, 1934, by the South Haven Fruit Exchange, from South Haven, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "* * * South Haven Fruit Exchange, South Haven, Mich. Tallman U. S. * * * Washed apples."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 18, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24007. Adulteration of apples. U. S. v. 84 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 35090. Sample no. 19143–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 3, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 84 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 29, 1934, by J. Snyder, from South Haven, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On December 20, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24008. Adulteration of apples. U. S. v. 20 Bushels of Apples. Default decree of destruction. (F. & D. no. 35098. Sample no. 13533–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 31, 1934, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 bushels of apples at Washington, Ind., alleging that the article had been transported in interstate commerce on or about October 26, 1934, by Frank Colbert, from Sodus, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On December 31, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24009. Adulteration of apples. U. S. v. 516 Bushels and 516 Bushels of Apples. Consent decrees of condemnation. Product released under bond for removal of deleterious substances. (F. & D. nos. 35146, 35265. Sample nos. 24849–B, 24856–B.)

Examination of the apples involved in these cases showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On or about October 24, 1934, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,032 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 9 and October 10, 1934, by the Producers Service Corporation, from Fennville, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Diamond 'F' Brand * * * Fennville Fruit Exchange, Inc., Fennville, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On November 9, 1934, the Fennville Fruit Exchange, Inc., Fennville, Mich., claimant, having admitted the allegations of the libel and having consented to the entry of decrees, judgments of condemnation were entered and it was ordered that the apples be released under bond, conditioned that they should not be sold or disposed of until they had been washed to remove the deleterious substances.

M. L. WILSON, *Acting Secretary of Agriculture.*

24010. Adulteration of apples. U. S. v. 39 Crates of Apples. Default decree of condemnation and destruction. (F. & D. no. 35147. Sample no. 24753-B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 6, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 39 crates of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 31, 1934, by L. Smith, from Fennville, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On December 14, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24011. Adulteration of apples. U. S. v. 210 Bushels of Apples. Consent decree of destruction. (F. & D. no. 35157. Sample no. 13547-B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 22, 1934, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 210 bushels of apples at Evansville, Ind., alleging that the article had been transported in interstate commerce on or about November 15, 1934, by Paul Ramey, from Alpine, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On January 8, 1935, Paul Ramey having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24012. Adulteration of apples. U. S. v. 218 Bushels of Apples. Decree of condemnation. Product released under bond. (F. & D. no. 33746. Sample no. 18329-B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On September 24, 1934, the United States attorney for the Northern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 218 bushels of apples at Carroll, Iowa, alleging that the article had been shipped in interstate commerce on or about September 19, 1934, from Bentonville, Ark., in two trucks, one driven by Jess Pitman and the other by a party unknown, and that it was adulterated in violation of the Food and Drugs Act.

The libel alleged that the apples were adulterated in that they contained harmful, poisonous, and deleterious ingredients, examination having shown the presence of arsenic and lead.

On October 29, 1934, Frank Becker, Carroll, Iowa, having appeared as claimant for the property, judgment of condemnation was entered and it was

ordered that the product be released under bond, conditioned that it be brought into conformity with the Federal Food and Drugs Act under the supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

24013. Adulteration and misbranding of wheat gray shorts and wheat scourings. U. S. v. Standard Milling Co. Plea of guilty. Fine, $50 and costs. (F. & D. no. 31375. Sample no. 16974–A.)

This case was based on an interstate shipment of a product, sold as wheat gray shorts and scourings, which was found to consist in part of brown shorts and to contain more fiber than declared on the label.

On January 22, 1934, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Standard Milling Co., a corporation, Kansas City, Kans., alleging shipment by said company on or about November 1, 1932, under the name of the Southwestern Milling Co., Inc., from the State of Kansas into the State of Missouri, of a quantity of wheat gray shorts and wheat scourings which were adulterated and misbranded. The article was labeled in part: "Red Turkey Wheat Gray Shorts and Wheat Scourings. The Southwestern Milling Co., Inc., Kansas City, U. S. A. Guaranteed Analysis * * * Crude Fiber Not More than 6.0."

The article was alleged to be adulterated in that brown shorts had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength and had been substituted in part for the article.

Misbranding was alleged for the reason that the statements, "Wheat Gray Shorts and Wheat Scourings" and "Crude Fiber not more than 6.0", borne on the tag attached to the sack containing the article, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, in that the said statements represented that the article consisted wholly of wheat gray shorts and wheat scourings and contained not more than 6 percent of crude fiber; whereas it consisted in part of brown shorts and contained more than 6 percent of crude fiber, namely, 6.53 percent of crude fiber.

On December 6, 1934, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of $50 and costs.

M. L. Wilson, *Acting Secretary of Agriculture.*

24014. Adulteration of apples. U. S. v. 12 Boxes and 13 Boxes of Apples. Consent decrees of destruction. (F. & D. no. 32386. Sample no. 41276–A.)

This case involved an interstate shipment of apples which bore arsenic and lead in amounts that might have rendered them injurious to health.

On or about February 8, 1934, the United States attorney for the District of North Dakota, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 25 boxes of apples, in part at Bismarck, N. Dak., and in part at Mandan, N. Dak., consigned by Moore Bros., Waitsburg, Wash., alleging that the article had been shipped in interstate commerce, on or about January 9, 1934, from Waitsburg, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fancy Spitzberger Moore Bros., Waitsburg, Wash."

It was alleged in the libels that the article was adulterated in that it contained arsenic and lead, added poisonous substances, which might have rendered it injurious to health.

On February 21, 1934, Moore Bros., having admitted the material allegations of the libels and having consented to the entry of decrees, judgments were entered ordering the product destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24015. Adulteration and misbranding of tomato catsup. U. S. v. Raab's Blue Ribbon Products, Inc. Pleas of guilty. Fines, $15. (F. & D. nos. 32186, 32916. Sample nos. 55588–A, 58944–A, 58945–A, 58946–A, 58948–A, 58949–A, 69220–A, 69221–A, 69222–A.)

These cases were based on various interstate shipments of tomato catsup that was adulterated since it was in part decomposed, and on one shipment of tomato catsup that was misbranded since it was not properly labeled to indicate the quantity of the contents.

On June 27 and September 7, 1934, respectively, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court informations against Raab's Blue Ribbon Products, Inc., a corporation, Williamstown, N. J., alleging shipment by said company in violation of the Food and Drugs Act as amended, between the dates of August 14, 1933, and October 10, 1933, from the State of New Jersey into the State of Pennsylvania of quantities of tomato catsup that was adulterated, and of a quantity of the same product that was misbranded. The article was labeled in part, variously: "Blue Ribbon Brand Tomato Catsup * * * Raab's Blue Ribbon Products Incorporated. Williamstown, N. J."; "Ensslen's Brand Tomato Catsup Rudolph Ensslen Sons * * * Reading, Pa."; "Aunt Ann's Catsup * * * prepared for Davies-Strauss-Stauffer Co., Allentown-Easton-East Stroudsburg, Pa." One shipment of the Blue Ribbon brand was contained in jugs with the statement "One Gallon" blown in the jug, and the statement "Contents 14 ozs." printed on the label.

Adulteration of the article in all shipments, with one exception, was alleged in that it consisted in part of a decomposed vegetable substance.

Misbranding was alleged with respect to one shipment for the reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity of the contents was more than 14 ounces, the amount printed on the label, and was less than 1 gallon, the amount blown in the jug.

On November 19, 1934, pleas of guilty to both informations were entered on behalf of the defendant company, and the court imposed fines totaling $15.

M. L. Wilson, *Acting Secretary of Agriculture.*

24016. Adulteration and misbranding of tomato paste. U. S. v. 172 Cases, et al., of Tomato Paste. Decrees of condemnation and forfeiture. Portion of product released under bond; remainder destroyed. (F. & D. nos. 33099, 33138, 33139, 33140. Sample nos. 3976–B, 4122–B.)

These cases involved a product which was represented to be tomato paste, but which was found to consist of a strained tomato product insufficiently concentrated to be designated as tomato paste.

On July 20, 27, and 30, 1934, the United States attorneys for the Eastern and Western Districts of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the district courts libels praying seizure and condemnation of 255 cases of tomato paste in various lots at Plaquemine, New Iberia, and Abbeville, La., alleging that the article had been shipped in interstate commerce, in part on or about June 26, 1934, and in part on or about July 11, 1934, by the Uddo-Taormina Corporation, from Crystal Springs, Miss., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Conco Brand Tomato Paste * * * Conserva Di Pomidoro Packed for Consolidated Companies Inc. Plaquemine La."

The article was alleged to be adulterated in that an insufficiently concentrated, strained tomato product had been substituted for tomato paste, which the article purported to be.

Misbranding was alleged for the reason that the article was offered for sale under the distinctive name of another article. Misbranding was alleged with respect to portions of the product for the reason that the statements, "Tomato Paste" and "Conserva Di Pomidoro", were false and misleading and tended to deceive and mislead the purchaser.

On November 19, 1934, the Uddo-Taormina Corporation having appeared as claimant for the lots libeled in the Eastern District of Louisiana, and having admitted the allegations of the said libels, judgments of condemnation were entered and it was ordered that the product be released under bond, conditioned that it be properly relabeled. On January 7, 1935, no claimant having appeared for the lot libeled in the Western District of Louisiana, judgment of condemnation was entered, and it was ordered that the said lot be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24017. Misbranding of peanut butter. U. S. v. 9½ Dozen Jars and 9½ Dozen Jars of Peanut Butter. Default decrees of condemnation and destruction. (F. & D. nos. 33174, 33297. Sample nos. 6591–B, 6976–B.)

Sample jars of peanut butter taken from the two shipments involved in these cases were found to contain less than the declared weight. In one of the lots the quantity of the contents was not properly declared, since the label bore

the statement "32 Oz.", whereas the weight should have been declared in pounds, the largest unit.

On or about August 8 and August 24, 1934, the United States attorney for the District of Connecticut, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 19 dozen jars of peanut butter, in part at New Haven, Conn., and in part at Bridgeport, Conn., alleging that the article had been shipped in interstate commerce, on or about June 20 and July 24, 1934, by the Williamson Candy Co., from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. A portion of the article was labeled: "Merco Peanut Butter Contents 32 Oz. Packed for Merchants Provision Co., New Haven, Conn." The remainder was labeled: "Park City Brand Peanut Butter Net Wgt. 2 Pounds Reliable Coffee Co., Inc. Distributors, Bridgeport, Conn."

The article was alleged to be misbranded in that the statements, "Contents 32 Oz." and "Net Wgt. 2 Pounds", on the labels, were false and misleading and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement was incorrect, and in the lot labeled "Contents 32 Oz.", the quantity of the contents was not declared in terms of the largest unit.

On December 5, 1934, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24018. Misbranding of canned tomatoes. U. S. v. 134 Cases, et al., of Canned Tomatoes. Decrees of condemnation and forfeiture. Portion of product released under bond to be relabeled. Remainder destroyed. (F. & D. nos. 33086, 33283, 33284. Sample nos. 66522–A, 66523–A, 4125–B.)

These cases were based on interstate shipments of canned tomatoes which fell below the standard established by this Department, because of excessive peel and poor color, and which were not labeled to indicate that they were substandard.

On July 16, July 23, and August 22, 1934, the United States attorney for the Eastern District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 573½ cases of canned tomatoes in various lots at Baton Rouge, New Orleans, Morgan City, Thibodaux, and Franklin, La. On August 22, 1934, a libel was filed in the Western District of Louisiana against 18 cases of canned tomatoes at Opelousas, La. The libels alleged that the said article had been shipped in interstate commerce in part on or about June 22, 1934, and in part on or about July 10, 1934, by the Uddo-Taormina Corporation, from Crystal Springs, Miss., and that it was misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: "Orla Brand Tomatoes * * * Distributed by the Uddo-Taormina Corporation."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because of excessive peel and poor color, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On November 19, 1934, the Uddo-Taormina Corporation having appeared as claimant for the lots libeled at Baton Rouge and New Orleans, and having admitted the allegations of the libels, judgments of condemnation were entered and it was ordered that the said lots be released under bond, conditioned that they be relabeled under the supervision of this Department. On December 7, 1934, and January 7, 1935, no claim having been entered for the lots covered by the remaining cases, judgments of condemnation were entered and it was ordered that they be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24019. Adulteration of canned shrimp. U. S. v. 1,235 Cases of Canned Shrimp. Decree of condemnation and forfeiture. Product released under bond for segregation and destruction of unfit portion. (F. & D. no. 33534. Sample no. 4021–B.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On September 24, 1934, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the dis-

trict court a libel praying seizure and condemnation of 1,235 cases of canned shrimp at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about September 13, 1934, by the Louisiana Packing Co., Inc., a corporation, from New Orleans, La., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Lucky Strike Brand Fancy Louisiana Shrimp * * * Louisiana Packing Co. Inc. Chauvin, Louisiana."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On December 13, 1934, the Louisiana Packing Co., Inc., having appeared as claimant for the property and having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered, and it was ordered that the product be released under bond conditioned that the unfit portion be segregated and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24020. Adulteration of canned peaches. U. S. v. 396 Cases of Canned Peaches. Default decree of condemnation and destruction. (F. & D. nos. 33675 to 33678, incl. Sample nos. 3919–B, 3920–B.)

Examination of the canned peaches involved in this case showed the presence of wormy and worm-eaten pieces.

On October 10, 1934, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 396 cases of canned peaches at Houston, Tex., alleging that the article had been shipped in interstate commerce, on or about July 7, 1934, by Roberts Bros., Inc., from Americus, Ga., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Indian Hunter Brand Peaches [or "Pie Peaches"] * * * Below U. S. Standard Good Food Not High Grade Distributed by Roberts Bros. Inc. Main Office Baltimore, Md."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On December 12, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24021. Misbranding of jam. U. S. v. 22 Cases of Jam. Default decree of condemnation and destruction. (F. & D. no. 33690. Sample no. 141–B.)

Sample jars of jam taken from the shipment involved in this case were found to contain less than 2 pounds, the weight declared on the label.

On October 30, 1934, the United States attorney for the District of New Mexico, acting upon a report by the Secretary of Agriculture, filed in the district court, a libel praying seizure and condemnation of 22 cases, each containing 12 jars of jam, at Roswell, N. Mex., alleging that the article had been shipped in interstate commerce on or about November 7, 1933, by the William Edwards Co., from Cleveland, Ohio, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "First Prize Brand Grape-Apple-Raspberry Seedless Jam Contents Two Pounds The William Edwards Co. Producers Cleveland, Ohio."

The article was alleged to be misbranded in that the statement on the jar label, "Contents Two Pounds", was false and misleading and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents were not plainly and conspicuously marked on the outside of the package since the statement made was incorrect.

On December 3, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24022. Adulteration of frozen eggs. U. S. v. Frigid Food Products, Inc. Plea of guilty. Fine, $100 and costs. (F. & D. no. 33783. Sample no. 44201–A.)

This case was based on an interstate shipment of frozen eggs which were in part decomposed.

On October 19, 1934, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Frigid Food Products, Inc., Detroit, Mich., alleging

shipment by said company in the name of the Jerpe Commission Co., Inc., in violation of the Food and Drugs Act, on or about October 18, 1933, from the State of Nebraska into the State of Maryland, of a quantity of frozen eggs which were adulterated. The article was contained in cans labeled in part: "Frigidegs Frozen Strictly Fresh, * * * Frigid Food Products, Inc. * * * Detroit, Mich."

The article was alleged to be adulterated in that it consisted in part of a decomposed and putrid animal substance.

On November 7, 1934, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of $100 and costs.

M. L. Wilson, *Acting Secretary of Agriculture.*

24023. Misbranding of apples. U. S. v. Harry T. Trunkey. Plea of guilty. Fine, $20. (F. & D. no. 33795. Sample no. 59954–A.)

This case was based on an interstate shipment of apples which were below the grade specified on the label.

On November 15, 1934, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Harry T. Trunkey, a member of a partnership trading as H. T. Trunkey-H. S. Wolfe, or Trunkey Wolfe Co., Wenatchee, Wash., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about December 9, 1933, from the State of Washington into the State of Pennsylvania, of a quantity of apples which were misbranded. The apples were invoiced as "Delicious Apples * * * Grade-Fancy", and were labeled in part, "Fancy * * * Delicious." The boxes had been originally marked "C Grade", but this grade mark had been removed from most of the boxes and the grade "Fancy" had been stamped on all boxes, some of the boxes, therefore, bearing both grade designations.

The article was alleged to be misbranded in that the statement, "Fancy * * * Apples", borne on the boxes, was false and misleading and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the said statement represented that the apples were Fancy, one of the grades established by the Washington State standards for apples, the State in which they were grown and packed; whereas they were below the grade Fancy under the Washington State standards. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, Fancy apples.

On December 1, 1934, the defendant entered a plea of guilty and the court imposed a fine of $20.

M. L. Wilson, *Acting Secretary of Agriculture.*

24024. Misbranding of salad oil. U. S. v. Marcy M. Hoffman (Hoffman Oil Co.). Plea of guilty. Sentence suspended. (F. & D. no. 33802. Sample nos. 51341–A, 51342–A.)

This case was based on an interstate shipment of two lots of salad oil consisting principally of cottonseed oil, which was labeled to convey the impression that it was olive oil of foreign origin. Sample cans taken from the lots were found to contain less than 1 gallon, the labeled volume.

On October 24, 1934, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Marcy M. Hoffman, trading as the Hoffman Oil Co., Brooklyn, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about October 25, 1933, from the State of New York into the State of New Jersey, of quantities of salad oil which was misbranded.

The article was alleged to be misbranded in that the statements "La Vergine Brand Finest Quality Oil Lucca * * * Qualita Extra Fine Insuperabile * * * Extra Fine Quality Oil Insuperable", together with the design showing a foreign-looking hamlet by the sea, an olive tree, and a woman holding a pitcher of olive oil against the olive-bearing branches of the tree, with respect to a portion of the article, the statements, "Olio Pure Prima Quality Conte Di Savoia Brand Lucca * * * Superior Quality", and the design showing olive branches and a crown with respect to a portion of the article; and the statement "Net Contents 1 Gallon" with respect to both lots, borne on the can labels, were false and misleading; and for the further reason that the article was labeled so as to deceive and mislead the purchaser, in that the said statements and designs represented that the article

was olive oil produced in a foreign country, and that the cans each contained 1 gallon thereof; whereas it was a product consisting almost entirely of cottonseed oil, and the cans contained less than 1 gallon thereof. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was incorrect.

On November 13, 1934, the defendant entered a plea of guilty and the court ordered that sentence be suspended, and that defendant be placed on probation for a period of one year.

M. L. Wilson, *Acting Secretary of Agriculture.*

24025. **Adulteration of tomato puree. U. S. v. 98½ Cases, et al., of Tomato Puree. Default decrees of condemnation and destruction.** (F. & D. nos. 34213, 34218, 34230, 34241. Sample nos. 3285–B, 19602–B, 19644–B, 19645–B.)

These cases involved interstate shipments of canned tomato puree that contained excessive mold.

On October 27, October 30, October 31, and November 1, 1934, the United States attorney for the Southern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 600 cases of canned tomato puree at Cincinnati, Ohio, consigned between the dates of September 3, 1934, and October 18, 1934, alleging that the article had been shipped in interstate commerce by the Henryville Canning Co., from Henryville, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled, variously: "Crystal Springs Brand * * * Tomato Puree Packed by Henryville Canning Co., Inc. Henryville, Ind."; "Henryville Brand Tomato Puree * * * Henryville Canning Co. Henryville, Indiana"; "Park View Brand Tomato Puree * * * Distributed by the Burke Grocery Co., Cincinnati, Ohio"; "Pekin Brand Tomato Puree * * * Pekin Packing Co., Pekin, Ind."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On December 7, 1934, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

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U. S. GOVERNMENT PRINTING OFFICE: 1935

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

24026–24125

[Approved by the Acting Secretary of Agriculture, Washington, D. C., October 1, 1935]

24026. Adulteration and misbranding of chloroform. U. S. v. One Hundred and Seven 1-Pound Bottles and One 1-Gallon Bottle of Chloroform. Default decree of condemnation and destruction. (F. & D. no. 34186. Sample nos. 17157–B, 17159–B, 17177–B, 17178–B.)

This case involved an interstate shipment of chloroform, a product recognized in the United States Pharmacopoeia, which failed to conform to the pharmacopoeial test for substances decomposable by sulphuric acid.

On October 27, 1934, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one hundred and seven 1-pound bottles and one 1-gallon bottle of chloroform at Albany, N. Y., alleging that the article had been shipped in interstate commerce on or about August 1, 1934, by McKesson & Robbins, Inc., from Bridgeport, Conn., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Chloroform USP."

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength, quality, and purity as determined by the test laid down in the said pharmacopoeia, and its own standard was not stated on the label.

Misbranding was alleged for the reason that the statement on the label, "Chloroform USP", was false and misleading.

On December 29, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24027. Misbranding of Vapex. U. S. v. 6½ Gross of Vapex. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 24763. I. S. no. 017179. S. no. 3119.)

This case involved a drug preparation that contained undeclared alcohol.

On May 16, 1930, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, a libel praying seizure and condemnation of 6½ gross of Vapex at Washington, D. C., alleging that the article had been shipped in interstate commerce on or about January 3, 1930, by E. Fougera & Co., Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act.

Analysis showed that the article consisted of an alcoholic solution of oil of lavender and menthol containing, 66 percent by volume of ethyl alcohol.

The article was alleged to be misbranded in that the package failed to bear on the label a statement of the quantity or proportion of alcohol contained in the article.

On December 13, 1934, no claimant appearing, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

14832—35——1

24028. Adulteration and misbranding of nitroglycerin tablets. U. S. v. Abbott Laboratories. Plea of nolo contendere. Fine, $25. (F. & D. no. 27532. I. S. no. 35855.)

This case was based on an interstate shipment of nitroglycerin tablets that contained a smaller proportion of nitroglycerin than declared on the label.

On May 6, 1932, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Abbott Laboratories, a corporation, North Chicago, Ill., alleging shipment by said company in violation of the Food and Drugs Act, on or about July 27, 1931, from the State of Illinois into the State of Michigan of a quantity of nitroglycerin tablets which were adulterated and misbranded. The article was labeled in part: "Hypodermic Tablets Nitroglycerin Grain 1–100 * * * Abbott Laboratories North Chicago, Ill."

The article was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, and that each of the tablets was represented to contain one one-hundredth of a grain of nitroglycerin; whereas each of said tablets contained less than one one-hundredth of a grain, namely, not more than 0.0071 grain (one one-hundred and fortieth of a grain) of nitroglycerin.

Misbranding was alleged for the reason that the statement "Tablets Nitroglycerin Grain 1–100", borne on the bottle label, was false and misleading since the tablets contained less than one one-hundredth of a grain of nitroglycerin.

On December 4, 1934, a plea of nolo contendere was entered on behalf of the defendant company, and the court imposed a fine of $25.

M. L. WILSON, *Acting Secretary of Agriculture.*

24029. Adulteration and misbranding of atropine sulphate tablets and nitroglycerin tablets. U. S. v. Parke, Davis & Co. Plea of guilty. Fine, $450. (F. & D. no. 27538. I. S. nos. 20567, 25087, 25559, 25763, 35547.)

This case was based on shipments of atropine sulphate tablets and nitroglycerin tablets that contained atropine sulphate and nitroglycerin in excess of the amount declared on the label.

On April 25, 1932, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Parke, Davis & Co., a corporation, Detroit, Mich., alleging shipment by said company, in violation of the Food and Drugs Act, on or about January 17, April 22, May 12, and June 9, 1931, from the State of Michigan into the States of Tennessee, Ohio, and Missouri, of quantities of atropine sulphate tablets and on or about April 14, 1931, from the State of Michigan into the State of Minnesota, of a quantity of nitroglycerin tablets which were adulterated and misbranded. The articles were labeled in part: "Hypdermic tablets * * * Atropine Sulphate 1/100 Grain" or "Nitro-Glycerin (Glyceryl Trinitrate) Hypodermic Tablets 1/100 grain * * * Parke, Davis & Co., Detroit, Mich."

The articles were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, in that the tablets were each represented to contain one one-hundredth of a grain atropine sulphate or nitroglycerin; whereas they contained more than so represented, the four shipments of atropine sulphate tablets containing not less than one eighty-eighth of a grain (0.0114 grain), one eighty-sixth of a grain (0.01167 grain), one eighty-fifth of a grain (0.01176 grain), and one eighty-ninth of a grain (0.0113 grain), respectively, of atropine sulphate per tablet, and the shipment of nitroglycerin tablets containing one seventy-ninth of a grain (0.01262 grain) of nitroglycerin per tablet.

Misbranding of the articles was alleged for the reason that the statements, "Tablets * * * Atropine Sulphate 1/100 Grain" and "Nitro-Glycerin * * * Tablets 1/100 grain", borne on the labels, were false and misleading, since the tablets contained more atropine sulphate and nitroglycerin than declared.

On October 26, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $450.

M. L. WILSON, *Acting Secretary of Agriculture.*

24030. Adulteration and misbranding of elixir terpin hydrate and codeine. U. S. v. Five 1-Pint Bottles, et al., of Elixir Terpin Hydrate and Codeine. Tried to the court. Judgment for the Government. Decree of condemnation, forfeiture, and destruction. (F. & D. nos. 27618, 27675. S. no. 5649. I. S. nos. 38724, 38736, 38737, 42759, 42760.)

These cases involved shipments of a product, sold under a name recognized in the National Formulary, which differed from the standard laid down in that authority, since it contained no codeine alkaloid, one of the ingredients required by the National Formulary for elixir terpin hydrate and codeine, but did contain codeine sulphate, which is not found in the official article, and which is approximately 80 percent as potent physiologically, as codeine alkaloid. The article contained no syrup, an ingredient required by the formulary. The label declared the presence of codeine sulphate, but failed to state that codeine sulphate is a derivative of morphine or opium.

On January 4 and 20, 1932, the United States attorney for the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 9 pint bottles and 37 gallon bottles of elixir terpin hydrate and codeine at New York, N. Y. On March 24 and April 6, 1932, respectively, amended libels were filed. It was alleged in the libels that the article had been shipped in interstate commerce, on various dates in October, November, and December, 1931, by the S. E. Massengill Co., from Bristol, Tenn., and that it was adulterated and misbranded in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it was sold under a name recognized in the National Formulary, and differed from the standard of strength, quality, and purity as determined by the test laid down in the said formulary official at the time of investigation. Adulteration was further alleged in that the strength and purity of the article fell below the professed standard or quality under which it was sold, namely, "Each fluid ounce represents codeine sulphate 1 gr. terpin hydrate 8 grs."

The article was alleged to be misbranded in that the statement, "Each fluid ounce represents codeine sulphate one gr. terpin hydrate 8 grs.", was false and misleading; and in that the packages failed to bear a statement on the label of the quantity or proportion of codeine sulphate contained in the article, since the statement was incorrect and failed to carry the information that codeine sulphate is a derivative of morphine or opium.

Samuel E. Massengill, trading as the S. E. Massengill Co., New York, N. Y., appeared as claimant and filed answers denying the material allegations of the libels. On October 1 and 2, 1934, the cases having been consolidated and a jury having been waived, the cases were tried to the court. On November 8, 1934, the court handed down the following opinion sustaining the charges that the article was adulterated in that it failed to conform to the requirements of the formulary, and was misbranded since it failed to declare on the label that codeine sulphate is a derivative of morphine or opium, and overruling the adulteration and misbranding charges based on the alleged failure of the article to correspond with the standard declared on the label (Patterson, *district judge*):

"The Food and Drugs Act provides that any food or drug adulterated or misbranded as defined in the act and shipped in interstate commerce shall be liable to seizure and forfeiture by proceedings analogous to proceedings in admiralty. By the act, a drug is to be deemed adulterated if it is sold under a name recognized in the United States Pharmacopoeia or National Formulary and if it differs from the standard of strength, quality, or purity therein laid down; so also if its strength or purity falls below the standard under which it is sold. Section 7; 21 U. S. C. A., section 8. A drug is to be deemed misbranded if the label on it is false and misleading; and in the case of a drug containing morphine, opium, or other specified substances or any derivative of them, it shall be deemed misbranded if the package fails to state the quantity or proportion of such substance or derivative. Section 8; 21 U. S. C. A., sections 9 and 10. There are other sorts of misbranding defined in the act, of no immediate importance.

"The United States seized on two occasions a number of bottles of a liquid drug owned by one Massengill and labeled 'Elixir Terpin Hydrate and Codeine (Special). Alcohol 30%. Each fluid ounce represents: Codeine Sulphate 1 gr., Terpin Hydrate 8 grs., Glycerin q. s.' Two libels for forfeiture were filed, one for each seizure. The charge against the articles was that they were adulterated and also misbranded. Massengill appeared as claimant in each suit. The suits were tried together, and a jury waived.

"1. In the National Formulary there is a product listed as elixir of terpin hydrate and codeine. The ingredients and quantities specified for it differ materially from the ingredients and quantities set forth on the labels of the bottles seized and also from the actual contents of the bottles. The first question presented is whether the drug was adulterated because sold under a name recognized in the National Formulary but not in fact conforming to the standard required by it. The claimant's contention is that the word 'special' in the name on the label, 'Elixir Hydrate and Codeine (Special)', is an indication that the product is not the elixir of terpin hydrate and codeine defined in the formulary, and certain expert testimony in support of this contention was offered. But the question is not what the chemist or the druggist may understand by the addition of the word 'special' to the title. The Food and Drugs Act was passed as a protection to the uninformed, that they might be assured that an article purchased was what it purported to be. *United States* v. *Lexington Mill Co.*, 232 U. S. 399, 409; *United States* v. *Coca Cola Co.*, 241 U. S. 265, 276. Certainly the average consumer would not be put on guard that a compound called 'elixir terpin hydrate and codeine (special)' was not the elixir of terpin hydrate and codeine listed in the formulary. The word 'special' might well signify to him merely that the ingredients were especially pure or that the product was manufactured with special care. If a manufacturer wishes to use a National Formulary name for a nonconforming product, it is his duty to give the public unmistakable notice that in its composition there has been a departure from the formula given in the formulary.

"The Regulations for Enforcement of the Food and Drugs Act, adopted by the Department of Agriculture, have an appropriate provision. Regulation 7 (b) provides: 'A drug sold under a name, or a synonym, recognized in the United States Pharmacopoeia or the National Formulary which does not conform to the standard of strength, quality, or purity for the article as determined by the test laid down therein shall be labelled with a statement to the effect that the drug is not a United States Pharmacopoeia or National Formulary article * * *.'

"This regulation is interpretive and explanatory of the statute, not an attempted addition, and there is no doubt of its validity. See *United States* v. *Antikamnia Co.*, 231 U. S. 654. The mere word 'special' is not a statement that the product bearing a formulary name is not a formulary article. I am of opinion that the drug was adulterated in that it was sold by a name recognized in the National Formulary but varying from the standards there laid down.

"2. The second question is whether the drug was misbranded for not stating on the container that codeine sulphate is a derivative of opium or morphine. That codeine is a derivative of opium or morphine is undisputed. The presence of codeine sulphate was shown by the label, but it was not stated that codeine sulphate is a derivative of opium or morphine. The act, section 8, declares that a product containing morphine or opium or any derivative must bear a statement of the quantity or proportion of the substance or derivative. In the Antikamnia case, supra, the point was squarely raised whether it was a sufficient compliance merely to name the derivative or whether the manufacturer was required to go further and to state of what substance the derivative was. The court construed the statute as putting on the manufacturer the double duty. In the case of a drug containing acetphenetidin, a derivative of acetanilid, he was called upon to state on the package that the article contained acetphenetidin and that this was a derivative of acetanilid. The rule is applicable here. The packages under seizure did not bear any notice that codeine is a derivative of opium or morphine. They were therefore misbranded.

"3. The final question is whether there was adulteration or misbranding on the score that the contents of the bottles did not correspond with the declarations on the labels. The labels stated that each ounce contained 1 grain of codeine sulphate and 8 grains of terpin hydrate. There was testimony by Government chemists that on analyses there was more terpin hydrate than the quantity declared and less codeine sulphate. On the other hand, there was testimony that when compounded the products had precisely the quantities specified on the label, and there was testimony that the test for terpin hydrate is not a satisfactory one. The variations found by the Government chemists, taken as a whole, are not wide, and I am not prepared to say that they are beyond the zone of experimental error and tolerance in manufacture. The burden of proof is on the United States, and the proof does not establish adulteration or misbranding by reason of discrepancy between the quantities set forth on the labels and the actual contents of the bottles.

"There will be a decree of forfeiture for adulteration and misbranding. Findings and conclusions in conformity with this opinion may be submitted."

On December 3, 1934, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24031. Adulteration and misbranding of Occo Mineral Compound for Sheep, Occo Mineral Compound for Hogs, and Occo Mineral Compound for Poultry. U. S. v. Oelwein Chemical Co. Tried to the court. Judgment of guilty on counts 1, 2, 3, and 4; not guilty on counts 5 and 6. Fine, $200 and costs. (F. & D. no. 30225. I. S. nos. 41008, 41009, 41010.)

The offense charged in this case was the adulteration and misbranding of stock and poultry compounds in which certain ingredients declared on the labels were present in smaller amounts than represented, or entirely absent. The products were represented to be "vitamized." However, tests of each product showed that 12 grams were not equal to 1 gram of good-grade dried yeast as a source of vitamin B. Tests of the stock and poultry compounds showed that 200 grams were not equal to 1 gram of good grade cod-liver oil as a source of vitamin D.

On May 29, 1934, the United States attorney for the Northern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Oelwein Chemical Co., a corporation, Oelwein, Iowa, alleging shipment by said company, in violation of the Food and Drugs Act, on or about September 18, December 8, and December 12, 1931, from the State of Iowa into the State of Minnesota, of quantities of Occo Mineral Compound for Sheep, Occo Mineral Compound for Poultry, and Occo Mineral Compound for Hogs, which were misbranded. The articles were labeled in part: "Vitamized Occo Mineral Compound for Sheep [or "Poultry" or "Hogs"] * * * Oelwein Chemical Company Oelwein, Iowa."

Analyses showed that the compound for sheep consisted of a mixture containing essentially salt (sodium chloride), Glauber's salt (sodium sulphate), lime, calcium carbonate, calcium phosphate, charcoal, sulphur, and copperas (iron sulphate); that the compound for poultry consisted of a mixture containing essentially salt (sodium chloride), Glauber's salt (sodium sulphate), lime, calcium carbonate, calcium phosphate, charcoal, sodium bicarbonate (baking soda), sulphur, copperas (iron sulphate), and a small amount of plant material; and that the compound for hogs consisted of a mixture containing essentially salt (sodium chloride), Glauber's salt (sodium sulphate), lime, calcium carbonate, calcium phosphate, charcoal, sulphur, copperas (iron sulphate), and sodium bicarbonate (baking soda).

The articles were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, in the following respects: The sheep compound was represented to contain fenugreek, powdered African ginger, cod-liver oil fortified with vitamin D, potassium iodide, yeast, and not less than 0.477 percent of iodine, whereas it contained no fenugreek, no powdered African ginger, no cod-liver oil fortified with vitamin D, no potassium iodide, no yeast, and no iodine; the poultry compound was represented to contain powdered capsicum, powdered African ginger, cod-liver oil fortified with vitamin D, yeast, lime (CaO) not less than 31.25 percent, a trace of iodine, African ginger, and capsicum, whereas it contained no capsicum, no powdered capsicum, no powdered African ginger, no African ginger, no cod-liver oil fortified with vitamin D, no yeast, not more than 28.7 percent of lime (CaO) and no iodine; the hog compound was represented to contain wormseed, potassium iodide, ginger, molasses, columbo, yeast, cod-liver oil fortified with vitamin D and a trace of iodine; whereas the article was alleged to contain no wormseed, no potassium iodide, no ginger, no molasses, no columbo, no yeast, no cod-liver oil fortified with vitamin D, and no iodine.

Misbranding was alleged for the reason that the following statements, (sheep compound) "Ingredients Guaranteed * * * Foenugreek * * * Pwd. African Ginger * * * Cod Liver Oil fortified with Vitamin D * * * Potassium Iodide * * * Yeast * * * Guaranteed Analysis * * * Iodine (1) not less than .0477%", (poultry compound) "Pwd. Capsicum * * * Pwd. African Ginger * * * Cod Liver Oil fortified with Vitamin D Yeast * * * Guaranteed Analysis Lime (CaO) not less than 31.25% * * * Iodine (1) not less than Trace * * *", (hog compound) "Ingredients: * * * American Worm Seed Potassium Iodide * * * Ginger * * * Molasses * * * Columbo-Yeast * * * Codliver Oil

fortified with Vitamin D * * * Guaranteed Analysis * * * Iodine (1) Trace", regarding the respective products and the statement "Vitamized" regarding all products borne on the labels were false and misleading, since the said sheep compound contained no fenugreek, no powdered African ginger, no cod-liver oil fortified with vitamin D, no potassium iodide, no yeast, no iodine; the said poultry compound contained no capsicum, no powdered capsicum, no African ginger, no powdered African ginger, no cod-liver oil fortified with vitamin D, no yeast, lime (CaO) not more than 28.7 percent and no iodine; and the said hog compound was alleged to contain no American wormseed, no potassium iodide, no ginger, no molasses, no columbo yeast, no cod-liver oil fortified with vitamin D, no iodine, and the said products were not vitamized.

On November 12, 1934, a jury trial having been waived the case was tried to the court. After the submission of evidence and argument of counsel, the court took the case under advisement and on November 16, 1934, adjudged the defendant company guilty on counts 1, 2, 3, and 4 covering the compounds for sheep and poultry, and not guilty on counts 5 and 6 covering the compound for hogs. A penalty of $200 fine and costs was imposed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24032. Adulteration and misbranding of sodium phenobarbital tablets, barbital tablets, cinchophen tablets, quinine sulphate pills and fluidextract ergot; and misbranding of elixir of amidopyrine. U. S. v. Blackman & Blackman, Inc., and Theodore A. Blackman. Pleas of guilty. Fines, $350 against each defendant; suspended as to Theodore A. Blackman. (F. & D. no. 30339. Sample nos. 20920–A, 20921–A, 21333–A, 21334–A, 21336–A, 21338–A, 21341–A, 21600–A.)

The offense charged in this case was the interstate shipment of various pharmaceuticals consisting of 2 lots of elixir amidopyrine that contained less alcohol than declared on the label; 1 lot each of sodium phenobarbital tablets, barbital tablets, cinchophen tablets, and quinine sulphate pills that contained smaller amounts of the said drugs than declared on the labels; and 2 lots of fluidextract of ergot which failed to conform to the standard laid down in the United States Pharmacopoeia, a sample taken from one shipment having been found to have a potency one half of that required by the pharmacopoeia, and a sample from the other shipment having been found to have a potency of not more than one fifth of that required.

On April 12, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Blackman & Blackman, Inc., and Theodore A. Blackman, New York, N. Y., alleging shipment by said defendants, in violation of the Food and Drugs Act, between the dates of July 12, 1932, and February 9, 1933, from the State of New York into the State of New Jersey, of quantities of sodium phenobarbital tablets, barbital tablets, cinchophen tablets, quinine sulphate pills, and fluidextract of ergot, which were adulterated and misbranded; and of quantities of elixir of amidopyrine which was misbranded. The articles were labeled, variously, "Premo Elixir of Amidopyrine 20% Alcohol"; "1½ Grs. Each Premo Preminal Brand of Sodium Phenobarbital"; "Premo 5 Grs. Each Barbital"; "Premo 7½ Gr. Cinchophen Acid Phenylcinchoninic U. S. P. Tablets"; "Pills * * * Premo Quinine Sulphate U. S. P. 2 Grs. (1.30 Mgms.) Each"; "Fluid Extract Ergot U. S. P. * * * Physiologically tested strictly according to the U. S. P. Cockscomb Method * * * very low temperatures used throughout the process doubly insures maximum activity. Dose: 15 to 60 minims (1 to 4 Cc.)." The articles were further labeled: "Premo Pharmaceutical Laboratories [or "Premo Laboratories"] New York, N. Y."

The information charged that the sodium phenobarbital tablets, barbital tablets, cinchopen tablets, and quinine sulphate pills were adulterated in that their strength and purity fell below the professed standard or quality under which they were sold in the following respects: Each of the sodium phenobarbital tablets was represented to contain 1½ grains of sodium phenobarbital, whereas each tablet contained less than 1½ grains, namely, not more than 1.281 grains of sodium phenobarbital; each of the barbital tablets was represented to contain 5 grains of barbital, whereas each of the tablets contained less than 5 grains, namely, not more than 4.457 grains of barbital; each of the cinchophen tablets was represented to contain 7½ grains of cinchophen, whereas each of the tablets contained less than 7½ grains, namely, not more than 6.159 grains, of cinchophen; and each of the quinine sulphate pills was represented to contain 2 grains of quinine sulphate, whereas each of the

said pills contained less than 2 grains, namely, not more than 1.769 grains, of quinine sulphate.

Adulteration of the fluidextract of ergot was alleged for the reason that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down in the said pharmacopoeia official at the time of investigation in that the article, when administered by intramuscular injection to single-combed white leghorn cocks required more than 0.5 cubic centimeters for each kilogram of body weight of cock to produce a darkening of the comb corresponding in intensity to that caused by the same dose of the standard fluidextract of ergot; whereas the pharmacopoeia provides that fluidextract of ergot, when administered by intramuscular injection to single-combed, white Leghorn cocks shall require a dose not exceeding 0.5 cubic centimeter for each kilogram of body weight of cock to produce a darkening of the comb corresponding in intensity to that caused by the same dose of the standard fluidextract of ergot; and the standard of strength, quality, and purity of the article was not declared on the container. Adulteration of the fluidextract of ergot was alleged for the further reason that the strength and purity of the article fell below the professed standard of quality under which it was sold, since it was represented to be fluidextract of ergot which conformed to the pharmacopoeial standard; whereas it was not.

Misbranding of the elixir amidopyrine was alleged for the reason that the statement "20% Alcohol", borne on the label, was false and misleading since the article contained less than 20 percent of alcohol, the two shipments containing not more than 16.57 and 15.81 percent, respectively, of alcohol. Misbranding of the elixir of amidopyrine was alleged for the further reason that the article contained alcohol, and the label on the package failed to bear a statement of the quantity or proportion of alcohol contained therein.

Misbranding of the sodium phenobarbital tablets, barbital tablets, cinchophen tablets, and quinine sulphate pills was alleged for the reason that the statements, "Tablets 1½ grains each * * * Sodium Phenobarbital", "100 Tabs. * * * 5 Grs. Each Barbital", "7½ Gr. Cinchophen * * * Tablets", "Pills * * * Quinine Sulphate 2 Grs. * * * each", borne on the labels, were false and misleading since the tablets and pills contained smaller amounts of the said drugs than declared on the labels. Misbranding of the fluidextract of ergot was alleged for the reason that the statements, "Fluid Extract Ergot U. S. P. * * * Physiologically tested strictly according to the U. S. P. Cockscomb Method * * * The very low temperatures used throughout the process doubly insures maximum activity. Dose: 15 to 60 minims (1 to 4 cc)", borne on the label, were false and misleading, since the article was not fluidextract of ergot which conformed to the standard laid down in the United States Pharmacopoeia, it was not physiologically tested strictly according to the U. S. P. cockscomb method, and a dose of 15 to 60 minims (1 to 4 cc) of the article would not insure maximum activity.

On November 13, 1934, a plea of guilty was entered on behalf of Blackman & Blackman, Inc., and the court imposed a fine of $350. On the same date Theodore A Blackman entered a plea of guilty and the court imposed a fine of $350, which was suspended.

M. L. Wilson, *Acting Secretary of Agriculture.*

24033. Adulteration and misbranding of Unguentum. U. S. v. Three 1-Pound Cans and 39 Tubes of Unguentum. Tried to a jury. Verdict for the Government. Decree of condemnation and destruction.
(F. & D. no. 30870. Sample nos. 42966–A, 42967–A.)

This case involved a product sold under a name recognized in the United States Pharmacopoeia but which differed from the official product. The labels of the article contained unwarranted curative and therapeutic claims. The labeling on the 1-pound cans represented that the article was an antiseptic and germicide, whereas tests showed that it was not.

On August 8, 1933, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three 1-pound cans and 39 tubes of Unguentum at Scranton, Pa., alleging that the article had been shipped in interstate commerce on or about April 6 and July 10, 1933, by the American Pharmaceutical Co., Inc., from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of zinc oxide, an aluminum compound, phenols (0.7 percent), volatile oils such as eucalyptol and menthol, petrolatum (88 percent), and a fat. Bacteriological tests showed that it was neither antiseptic nor germicidal.

The article was alleged to be adulterated in that it was sold under a name recognized by the United States Pharmacopoeia, and differed from the standard of strength, quality, and purity as determined by the test laid down in the pharmacopoeia, and its own standard was not stated on the label. Adulteration was alleged with respect to the product in the 1-pound cans for the further reason that its strength fell below the professed standard or quality under which it was sold, namely, "Antiseptic", "Germicidal."

Misbranding was alleged for the reason that the statement on the label, "Unguentum" was false and misleading since it created the impression that the article was the product described in the United States Pharmacopoeia; whereas it was not. Misbranding of the 1-pound cans was alleged for the further reason that the following statements appearing on the tin container were false and misleading: "Antiseptic Surgical Dressing Germicidal. A highly effective germicide and antiseptic. The antiseptic properties of Unguentum APC are not reduced by chemical reaction with organic matter or serum and its consistency insures uninterrupted contact of the antiseptic with the injured area—an important factor in the reduction of bacteria and the prevention of secondary infection. * * * with its antiseptic properties." Misbranding of both lots was alleged for the reason that the following statements appearing in the labeling, regarding the curative or therapeutic effects of the article, were false and fraudulent: (1-pound cans) "Heals as it removes inflammation * * * with its antiseptic properties, stops and prevents infection * * * scar-free and natural * * * In the case of severe burns, incised and lacerated wounds * * * For the removal in inflammation"; (on the tubes) "* * * heals * * * as it removes inflammation."

The American Pharmaceutical Co., Inc., filed an answer admitting the interstate shipment and that the product was sold under a name recognized in the pharmacopoeia, but denying all other material allegations of the libel. On November 15, 1934, a jury having been impaneled, the case came on for trial. At the conclusion of the Government's evidence no claimant appearing, the court instructed the jury as follows (Johnson, district judge):

The COURT. "Ladies and gentlemen of the jury: The question here in this case is whether this so-called 'Unguentum' three 1-pound cans of it"—

COUNCIL FOR THE GOVERNMENT. "There is more than that, Judge, three 1-pound cans, more or less, and thirty-nine tubes, more or less."

The COURT. "Three 1-pound cans and 39 tubes, more or less, called 'Unguentum', whether it is adulterated and misbranded, contrary to the Food and Drugs Act of the United States of America. That is the question.

"Now, you have heard the evidence, all the evidence of the Government. The defendant has not appeared, although he has had knowledge and notice of the trial of this case, as well as his attorney, Perry Goldberg, of 225 Broadway, New York.

"See, the act of Congress provides that you can't ship an article like this as contended for by the Government from one State to another, and it is admitted in the pleadings—that is, in the papers filed by the defendant—that it was shipped from one State to another, that it was passed in interstate commerce; so that brings it within the jurisdiction of the United States; and the only question for you to determine is whether it is misbranded and mislabeled and described contrary to the act of Congress, and the act of Congress prevents the misbranding, misdescribing, and mislabeling of an article of this kind.

"Now, if you believe these witnesses that took the stand here, you would be warranted in finding a verdict in favor of the plaintiff, the Government, and against these cans of 'Unguentum'; and you have heard all this evidence; and if you were to find in favor of the defendant, you would say, you would find in favor of the defendant named here in this libel. If you find in favor of the Government, this would be the form of verdict that you would render: 'We find in favor of the plaintiff, the United States of America, and the articles described and referred to as "Unguentum" in the libel are adulterated and misbranded according to the Food and Drugs Act of the United States of America.' If you believe the witnesses and find in favor of the Government, that is the kind of verdict you would find.

"Of course, you will all have to agree to it, all 12 of you, and it will be signed by your foreman, and the consequence of finding for the Government would be there would be an order signed by the judge confiscating this 'Unguentum.' That would be the effect of your verdict if you find for the Government—it would be confiscated.

"Let one of the jurors go around and see if you all agree on your verdict. Reverend Minsker, you talk to each one, if that is satisfactory to you, you act as foreman.

"If you are not going to find for the plaintiff, then you will have to find for the defendant and there will have to be another suit. In other words, instead of directing the verdict, I am letting you find it. The Government contends—and the Government may be right—that I should tell you what your verdict should be, but I am letting you find it."

The jury returned a verdict for the Government, and on November 15, 1934, judgment of condemnation and forfeiture was entered, and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24034. Misbranding of Men-tho-lo. U. S. v. 118 Packages and 142 Packages of Men-tho-lo. Default decrees of destruction. (F. & D. nos. 31152, 31153. Sample nos. 40257-A, 40258-A.)

These cases involved a drug preparation, the labels of which contained unwarranted curative and therapeutic claims.

On October 3, 1933, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 260 packages of Men-tho-lo at Wheeling, W. Va., alleging that the article had been shipped in interstate commerce in various shipments on or about February 21, June 26, and September 5, 1933, by the Leighton Supply Co., from Pittsburgh, Pa., and charging misbranding in violation of the Food and Drugs Act as amended.

Analyses showed that the article consisted essentially of menthol and methyl salicylate incorporated in a mixture of petrolatum, paraffin, starch, and water.

The article was alleged to be misbranded in that the following statements regarding its therapeutic and curative effects, appearing in the labeling, were false and fraudulent: (Tin container) "For Catarrh * * * Croup, * * * Toothache, Asthma, Hay Fever, Sore Joints, Rheumatism, * * * Scalds, * * * etc."; (carton) "For Catarrh. * * * Hay fever or Asthma, * * * For Rheumatism, Sore Joints, Swellings, and all pains of a Rheumatic Nature * * * For Toothache, * * * For * * * Scalds, Etc. * * * For Sore Throat, * * * It will draw out inflammation and soreness. * * * gives instant relief in case of Croup or Cold on the Lungs"; (circular) "An External Remedy for all Aches and Pains. For Catarrh, * * * Asthma or Hay Fever, Influenza or Grippe, * * * For * * * Toothache, * * * the aching parts. This affords quick relief in nearly all cases. For Colic, Cramps, Croup, Sore Chest, * * * etc. apply to affected parts, * * * This draws out soreness and prevents inflammation. For Backache, Sore or Swollen Joints, * * * or any lameness of a rheumatic nature, * * * A Sore Throat or severe Cough can be relieved, if not entirely cured. * * * For Catarrh of the head or throat, * * * you will get great relief, if not an entire cure. * * * Skin Eruptions, etc., * * * After a severe scald or burn, it will draw out inflammation and prevent unsightly scars. * * * Try Men-tho-lo for Piles, Frost Bites, or anything where a liniment or ointment might be used. * * * I would not be without Men-tho-lo, as it saved my son's life when he had the croup. * * * For Backache, Limbs or Chest, * * * For Piles, * * * Scalded Feet, * * * For Colic, Cramps, Croup or Catarrh, * * * We dare not claim for all above, A staid and everlasting cure, But nine times in ten or more, Relief is absolutely Sure."

On January 4, 1935, no claimant appearing, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24035. Misbranding of camphorated oil. U. S. v. 140 Bottles of Camphorated Oil. Default decree of condemnation and destruction. (F. & D. no. 31154. Sample no. 40249-A.)

This case involved an interstate shipment of camphorated oil, the labels of which contained unwarranted curative and therapeutic claims.

On October 3, 1933, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel against 140 bottles of camphorated oil at Wheeling, W. Va., alleging that the article had been shipped in interstate commerce on or about May 5, 1933, by Styron-Beggs Co., from Newark, Ohio, and charging misbranding in violation of the Food and Drugs Act as amended.

The article was alleged to be misbranded in that the following statements on the bottle label and carton, regarding the curative and therapeutic effects of the article, were false and fraudulent: "Rheumatic or Gouty Affections of the joints, * * * Sore Throat, Croup and Local Pains."

On February 21, 1934, no claimant having appeared, judgment of condemnation was entered, and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24036. Misbranding of Savoss. U. S. v. 47 Bottles of Savoss. Default decree of condemnation and destruction. (F. & D. no. 31242. Sample no. 44897–A.)

This case involved a drug preparation, the labels of which contained unwarranted curative and therapeutic claims.

On October 16, 1933, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 47 bottles of Savoss at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about September 21, 1933, by the Troy Chemical Co., Inc., from Binghamton, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Savoss * * * Formerly Save-The-Horse Treatment * * * Troy Chemical Co., Inc. Binghamton, N. Y."

Analysis showed that the article consisted essentially of volatile oils, such as turpentine oil and tar oil (72 percent by volume), a trace of an iodine compound, and alcohol (15 percent by volume).

The article was alleged to be misbranded in that the following statements appearing in the labeling, regarding its curative or therapeutic effects, were false and fraudulent: (Bottle label) "Save-the-Horse treatment [cut showing diseased conditions of horses' legs] For lameness In Cases Of Bone Spavin, Ringbone (Except Low Ringbone), Splint * * * As Well As Lameness, In Such Conditions As Bog Spavin, Curb, Windpuff * * * and bandage only in such specific cases as are described in Book of Directions which accompanies each bottle": (carton) "Save-The-Horse Treatment * * * [Cut showing diseased conditions of horses' legs] For Lameness In Cases Of Bone Spavin, Ringbone (Except Low Ringbone), Splint * * * As Well As Lameness, In Such Conditions As Bog Spavin, Curb, Windpuff * * * enlargements and all parts that are affected. * * * bandage only in such specific cases as are described in Book of Directions which accompanies each bottle"; (circular) "Save-The-Horse Treatment * * * 'I want Savoss, formerly Save-The-Horse.' * * * Caked-Bag not involved with fever or inflammation"; ("Guarantee-Contract") "One bottle of Savoss is required for any one case of Bone, Bog or Blood Spavin, Curb, Splint, Sidebone, Capped-Hock and high Ringbone. * * * Two bottles of Savoss are required for any one case of Thoropin in combination with Bog Spavin; Wind Puff; Injured, Filled or Bowed Tendon or Ligament; Two High Ringbones, one on each side of same pastern; * * * Shoulder, Hip or Stifle Lameness, including displacement of stifle in colts. * * * Thrush, Gravel, Contracted Hoof, Founder, Low Ringbone, Cocked Angle, Sprung Knee, Sweeney, Displacement of Stifle in matured horses, the use of Savoss to locate Lameness and for the treatment of cows, or other domestic animals. * * * Save-The-Horse Treatment"; (booklet) "Save-The-Horse Treatment * * * In any remote case, even if swelling or lameness increases at the start, faithfully persist in the treatment, as such symptoms are not unfavorable. * * * In cases of established growths such as Bone Spavin and Ringbone * * * If, after two or three courses, Savoss does not take hold, making a scurf, each first course may be extended to 10 or 12 days * * * Bone and Blind Spavin Lameness * * * Bog and Blood Spavin * * * Thoroughpin * * * Capped Hock * * * Lameness * * * For Swelling * * * Wind-Puff or Wind-Gall * * * Shoulder Lameness * * * 'Sweeney' * * * Poll Evil * * * Fistulous withers * * * Shoeboil Or Capped Elbow * * * Hip and Whirlbone Lameness * * * Stifle Lameness

* * * Enlarged, Capped and Injured Knee * * * Sprung Knee * * * Splint * * * Ringbone or 'Cling-Fast,' and 'Osslets' * * * Side-bone * * * Hoof-Bound and Founder * * * 'filled' Tendon * * * Bowed Tendon."

On November 1, 1934, no claimant appearing, judgment of condemnation was entered, and it is was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24037. Alleged adulteration and misbranding of thyroid gland capsules. U. S. v. George A. Breon & Co., Inc. Tried to the court. Judgment of guilty on one misbranding count; not guilty on remaining counts. Appeal to the Circuit Court of Appeals. Judgment reversed and case remanded. (F. & D. no. 31336. Sample nos. 13916-A, 13917-A.)

On January 12, 1934, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against George A. Breon & Co., Inc., Kansas City, Mo., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about August 24, 1932, from the State of Missouri into the State of Ohio of quantities of thyroid gland capsules which were adulterated and misbranded. The article was labeled in part: "Capsules * * * Thyroid Gland Substance (Desiccated) 1-4 Gr. [or "1 gr."] * * * Geo. A. Breon & Co., Inc., Kansas City, Mo."

The article was alleged to be adulterated in that its strength and purity fell below the professed standard under which it was sold in that the capsules were represented to contain ¼ grain and 1 grain, respectively, of desiccated thyroid, whereas the former contained more than ¼ grain and the latter contained less than 1 grain of desiccated thyroid.

The article was also alleged to be misbranded in that the statements "Capsules * * * Thyroid Gland Substance (Desiccated) 1-4 gr. [or "1 gr."]", borne on the bottle labels, were false and misleading.

On February 5, 1934, the defendant filed a motion to quash, and subsequently filed a demurrer and a motion for a bill of particulars, which were argued March 26, 1934, and overruled. On April 5, 1934, a jury having been waived, the case was tried to the court, and judgment was entered finding the defendant guilty on the count charging misbranding of the ¼-grain capsules, and not guilty on the remaining counts. On April 19, 1934, motions in arrest of judgment and for a new trial were overruled, and on the same date the defendant filed its petition for appeal and assignment of errors. On November 19, 1934, the judgment of the lower court was reviewed in the circuit court of appeals for the eighth circuit, was reversed, and the case was remanded with the following opinion (Gardner, *circuit judge*):

"This is an appeal from the judgment of the lower court finding appellant guilty upon the second count of an information charging it with having shipped in interstate commerce a bottle containing one hundred capsules labeled, "one-quarter grain desiccated thyroid", and charging that the same was misbranded under the Food and Drugs Act (Title 21, U. S. C. A., secs. 1 to 25), in that said capsules contained more than one-quarter grain desiccated thyroid.

"We shall refer to the appellant as defendant.

"The information contained four counts. Trial by jury was waived, and the court, at the conclusion of the evidence, found the defendant not guilty on counts 1, 3, and 4, but found it guilty on count 2. Defendant interposed a demurrer to count 2, on the ground that unless the contents of the capsules fell below the indicated strength and purity, it was not a violation to ship them. The court overruled the demurrer, and also overruled defendant's demurrer to the evidence as to this count.

"On this appeal it is contended (1) that the court erred in overruling the demurrer to count 2 of the information; (2) that the evidence is insufficient to warrant a conviction; and (3) that the verdict is against the declaration of law given by the trial court.

"It is earnestly urged by defendant that furnishing an excess of the identical drug stated on the label, the drug being a harmless and wholesome one, is not a crime, and that the Pure Food and Drugs Act was intended to protect public health and prevent fraud, and hence, does not apply to a case where health is not endangered, and no fraud is committed. The Government, on the other hand, contends that the act was passed for the purpose of protecting the general public, to preserve their health, and to prevent their being deceived by

label or fraud as to the real character of the article offered for sale, and that where drugs are involved, the act requires a correct statement on the label.

"Section 9, of Title 21, U. S. C. A., provides:

The term "misbranded" as used in sections 1 to 15, inclusive, of this title, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, Territory, or country in which it is manufactured.

"Section 10, of Title 21, U. S. C. A., provides in part as follows:

For the purposes of sections 1 to 15, inclusive, of this title, an article shall be deemed to be misbranded;

Drugs. In case of drugs:

Imitation or use of name of other article.—First. If it be an imitation of or offered for sale under the name of another article.

Removal and substitution of contents of package, or failure to state on label quantity or proportion of narcotics therein.—Second. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilid, or any derivative or preparation of any such substances contained therein.

False statement of curative or therapeutic effect.—Third. If its package or label shall bear or contain any statement, design, or device regarding the curative or therapeutic effect of such article or any of the ingredients or substances contained therein, which is false and fraudulent.

"It appears from the evidence in this case that the drug involved is not a potent, poisonous, or harmful one, and that no harm would result to a person from taking capsules containing approximately one third of a grain of thyroid, instead of a capsule containing one quarter of a grain of thyroid, nor, indeed, from the taking of a series of bottles of such capsules. This is not a case in which the defendant is charged with adulteration, but with misbranding, and a falsity of the label is not as to the ingredients or substances contained in the capsules, but as to the quantity contained therein. The Government contends that the label is false and misleading within the meaning of section 9, title 21, supra, and that it is not material that the drug was a harmless and wholesome one, nor that the label understated the amount of such drug. It is persuasively argued by defendant that the added strength or quantity of thyroid could not have been within the purpose of this statute, and that the statute was aimed at the giving of a less amount, rather than an excess, and by way of illustration it is said in counsel's brief:

If I sell a package of butter which is labeled "Pure Creamery Butter, net weight 1 Lb.," it is necessary to determine the strength, quality, and purity of the butterfat and other articles contained in this substance, in order to determine whether or not it is the identical thing stated, namely, pure creamery butter, but if it is pure creamery butter, and I sell in the package 18 ounces of the pure creamery butter instead of the 1 pound net weight declared on the label, there is no misbranding, because I have sold the identical thing or substance which the label declares. I have merely given the purchaser good measure, and I have violated no law.

"In the view we have taken of the other issues involved, however, we do not deem it necessary to pass upon this question.

"At the request of defendant, the court gave the following declaration of law:

The court declares the law to be that the burden is upon the Government to show beyond a reasonable doubt that the thyroid mentioned in counts one and two contained more than ¼ grain of thyroid, and in such quantity as not to permit a reasonable tolerance or variance, and if the court finds and believes from the evidence that the assay made by the Government chemists under the supervision of the Secretary of Agriculture, was not correct, or if there is a reasonable doubt as to the accuracy of such assay, if any, then the court should find the defendant not guilty as charged in the first and second counts of the information.

"The United States Pharmacopoeia prescribes a method for determining the iodine content of powdered thyroid. It also states that, 'Thyroid contains not less than 0.17 and not more than 0.23 percent of iodine in thyroid combination, and must be free from iodine in inorganic or any other form of combination than that peculiar to the thyroid gland.' The capsules in question contained in addition to thyroid: Calcium, phosphate, carbonate, and starch. One of the Government's experts testified that using the method of analysis prescribed by the United States Pharmacopoeia, he obtained a 53 percent excess in an analysis of 30 of the ¼-grain capsules. On analyzing 10 more, the result was within 3 percent of the first analysis. Another of the Government's experts testified that using 20 of the quarter-grain capsules, he found a 42 percent excess.

"Counts 3 and 4, which were dismissed, charged violation of the act on the shipment of a bottle of thyroid capsules which were alleged to be adulterated,

and the bottle to be misbranded because the label stated the capsules contained 1 grain of thyroid, while they contained only a small percent of a grain. It is interesting to observe that one of the Government's chemists testified that the 1-grain capsule showed 0.12 grain of thyroid, while the other Government chemist found approximately only 0.032 grain per capsule. At the trial the Government produced six of the 1-grain capsules and offered to have the Government's chemist and the defendant's chemist analyze them. The analysis was thereupon made in the United States Pure Food and Drug Laboratory at Kansas City, in strict accordance with the United States Pharmacopoeia method. The result obtained showed 6.82 grain of thyroid per capsule. This was admitted by all the expert witnesses to be an impossible result, as each capsule was only a 4-grain capsule to begin with, consisting of 1 part thyroid powder and 3 parts filler.

"Defendant introduced in evidence the formula used in making the quarter-grain capsules, showing that the proper amount of filler was used to produce ¼-grain thyroid per capsule. One of the Government's chemists testified, on cross-examination, that in the quarter-grain capsule, if the mathematical proportions were proper by weight, and the thyroid substance used was a proper thyroid substance, and the blending was properly done, each capsule should assay the ¼-grain thyroid allowing for 100-percent efficiency in the mixture. This witness also testified, on cross-examination, that various contents mixed with thyroid powder might cause various results in anlysis, depending upon the nature of the material. Another testified, on cross-examination, that there might be a variance in the result of analysis performed by two men working under the same conditions, analyzing the same substance, but that it would be impossible for him to give a general idea as to what the amount of disagreement or discrepancy might be.

"As this is a criminal case, it was, of course, incumbent upon the Government to prove the charge by evidence that satisfies beyond a reasonable doubt that the defendant was guilty of the charge. *Lilienthal's Tobacco Co.* v. *United States* 97 U. S. 237; *Potter* v. *United States* 155 U. S. 438; *Davis* v. *United States* 160 U. S. 469; *Tinsley* v. *United States* (CCA8) 43 Fed. (2d) 890; *Read* v. *United States* (CCA8) 42 Fed. (2d) 636; *Salinger* v. *United States* (CCA8) 23 Fed. (2d) 48.

"The sufficiency of the evidence was challenged by proper motion for judgment of acquittal and demurrer to the evidence interposed at the close of the case. Unless, therefore, there was such substantial evidence in this case, it was the duty of the trial court, a jury being waived, to acquit the accused, and if all the substantial evidence is as consistent with innocence as with guilt, it is the duty of this court to reverse the judgment against the accused.

"It is contended by defendant that there was no evidence that the thyroid in these capsules, in combination with the other elements contained therein, was subject to accurate analysis and assay under the method prescribed in the pharmacopoeia. The pharmacopoeia formula or method appears to contemplate thyroid unmixed with other substances for its analysis. In the one analysis of the 1-grain capsule, made during the trial, the Government's chemist found 6.82 grains of thyroid per capsule, while in another he found 3.2 percent of 1 grain per capsule. This is a variation of about 22,000 percent in net result. The analysis showing 6.82 grains of thyroid is, of course, not only absurd but impossible, and this evidence places the stamp of uncertainty and unreliability for all practical purposes upon the method employed. The variations are so pronounced as to be startling.

"The court, in its decision and findings, among other things said, in referring to the third and fourth counts of the information: The chemists who have testified, both for the Government and for the defendant, undoubtedly are men of the finest character and ability in their profession, absolutely honest, but the testimony as to the Government on the one side, is diametrically opposed by the testimony on the other. That is, the original testimony offered by the Government and by the defendant was in direct opposition in that regard. If that testimony remained in that situation it would have been impossible to say that the Government had proved its case beyond a reasonable doubt. Upon the suggestion of the Government, however, at the close of the evidence, which suggestion the defendant accepted, an analysis was made by the chemists jointly of a part of the shipment referred to in counts 3 and 4. Well, that analysis showed that each of the capsules contained 6 grains of thyroid instead of 1 grain. It was an analysis which didn't help the Government any, and if it is certain that it is an impossible analysis, which is conceded, must be conceded,

it brings into some doubt the accuracy of the analysis testified to by the witnesses for the Government. * * * The other evidence which was offered by the defendant as to the manner of manufacture of these capsules, the care that is taken in the manufacture of the capsules to see that they went out just as represented and to see to it that there was no violation of any of the requirements of the law or of the regulations, that evidence convinces me that the defendant did not intentionally violate the law; on the contrary did everything that reasonably could be done apparently to comply with the requirements of the law. As the case stands, it seems to me I must find it has been proved beyond a reasonable doubt that the capsules which were in this shipment referred to in the second count of the information did contain a very slight excess of thyroid above the one-fourth grain which it was represented that they contained upon the label attached to and affixed to the bottle. The only argument that is advanced against that conclusion is that this method of analysis, the method of analysis which was used, is inaccurate, does not permit of an accurate result. Well, I don't know whether it permits of an accurate result or does not permit of an accurate result. * * * There is so little in this testimony to justify any punishment at all upon the defendant—nothing except a very technical violation of the law—that even if I were to consider this plea of nolo contendere, I don't think I would add anything to the punishment imposed.

"We are of the view that the lower court not only entertained but expressed a reasonable doubt of the guilt of the defendant, and we think the familiar rules applicable in criminal cases have not been satisfied in this case. The judgment appealed from is therefore reversed, and the cause remanded with directions to grant defendant a new trial."

M. L. Wilson, *Acting Secretary of Agriculture.*

2403S. Misbranding of Beach's Gen-Sen Tonic. U. S. v. Frank E. Beach (Beach's Wonder Remedy Co.). Plea of guilty. Fine, $100. (F. & D. no. 31453. Sample no. 39150-A.)

This case was based on an interstate shipment of Beach's Gen-Sen Tonic, the labeling of which contained unwarranted curative and therapeutic claims.

On May 25, 1934, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district aforesaid an information against Frank E. Beach, trading as Beach's Wonder Remedy Co., Columbia, S. C., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about June 6, 1933, from the State of South Carolina into the State of Georgia of a quantity of Beach's Gen-Sen Tonic which was misbranded.

Analysis showed that the article consisted of extracts of plant drugs including aloes and senna, magnesium sulphate, benzoic acid, glycerin, and water, flavored with oil of anise and methyl salicylate.

The article was alleged to be misbranded in that certain statements, designs, and devices regarding its curative and therapeutic effects, appearing on the bottle labels, cartons, and in a circular enclosed in the said cartons, falsely and fraudulently represented that it was effective as a tonic; effective to aid and benefit the blood, liver, kidneys and stomach; effective as a treatment for kidney and bladder trouble, rheumatism, impure blood, sluggish or torpid liver, loss of appetite, indigestion, female trouble or weakness, and worms in children; effective as a constructive tonic aid for enriching the blood, building the strength and improving the health in general; effective as a treatment, remedy, and cure for rheumatism, consumption, poison in the blood, and worms in children and adults; effective as a treatment, remedy, and cure for indigestion, irritation, pains in the belly, irritation or itching at the lower end of the bowels, alternation of diarrhoea and costiveness, great thirst and variable and often voracious appetite, fetid breath, pale, sallow and leaden complexion, occasional flushes, swelling of the upper lip, watery mouth, enlargement of the nostrils, livid circles around the eyes, dilation or contraction of the pupil, fixed unmeaning expression, enlargement of the belly, disturbed sleep, dry cough, headache, slow fever, spasmodic or convulsive affections, remittent fever, great drowsiness, morbid restlessness, pain in the bowels and pit of the stomach, gastric distress, affected head, stupor and delirium in children due to worms, temporary blindness, loss of memory, forgetfulness, failing vitality, lost manhood, fluttering action of the heart, palpitation of heart, shortness of breath, rolling or throbbing sensation in stomach, varying appetite, pain in small of back, bad stomach, irregular bowels,

sleepless nights, tired and worn out feeling and broken down in health due to tape worms; effective as a treatment, remedy, and cure for dyspepsia, indigestion, headache, loss of appetite, sour stomach, distress or sense of fullness after eating, nausea, acidity, heartburn, dizziness, bad taste in the mouth pain in the region of the heart, sleepless nights, loss of flesh, wan expression of the face, belching of wind and food after eating, formation of gas in bowels, bad breath due to a diseased stomach; effective as a treatment, remedy, and cure for biliousness, chills and fever, sallow complexion, constant headache, sinking sensation, dizziness, distressing heart flashes, fainting spells, sideache, annoying backache, pressure on top of head, imperfect circulation of blood, fluttering action of the heart, tenderness of abdomen, cold and swollen feet, persistent and obstinate constipation, pains in bones, aching legs, tired feeling due to diseased liver; effective as a treatment, remedy, and cure for ulcerated kidneys, inflamed kidneys, rheumatism, lumbago, highly colored urine, bloody, greasy froth in urine, urate deposits, retention of urine, bladder weakness or frequent catarrh of bladder, burning sensation when urinating, weak, lame or painful back, aching hips and all broken down feeling due to diseased kidneys; effective as a treatment, remedy, and cure for scrofula, ulcers, pimples, boils, eruptions, swelling, erysipelas, eczema, tetter, blotches, sore eyes, sore ears, St. Anthony's fire, salt rheum, scald head, sore legs, cankers, chronic rheumatism and gout due to diseased blood; effective as a germ destroyer and blood purifier; effective to help rheumatism, catarrh, liver disease, bladder disease, nervous diseases, dyspepsia, malaria, scrofula, la grippe, ovarian troubles, piles, either itching, bleeding or blind, and female troubles; effective to feed and vitalize the system and destroy the microbe enemy within; effective as a treatment for girls blossoming into maturity, to remove obstructions and to insure regularity in menstruation; effective as a treatment in all female complaints; effective as a treatment for change of life and to completely meet the needs in the many ailments which annoy and afflict women; effective as a treatment for any of the various complaints peculiar to women, to relieve every irregularity, inflammation, ulceration, and weakness, and to restore the system to a normal condition; and effective when used in connection with Beach's Wonder Oil as a treatment for eczema, rash, and tetter.

On December 1, 1934, the defendant entered a plea of guilty and the court imposed a fine of $100.

M. L. Wilson, *Acting Secretary of Agriculture.*

24039. Adulteration and misbranding of white pine and tar compound cough syrup. U. S. v. Charles W. Link (C. W. Link Drug Co.). Plea of guilty. Fine, $75. Fine remitted. (F. & D. no. 31474. Sample no. 42936–A.)

This case involved a drug preparation, the labels of which bore unwarranted curative and therapeutic claims. Analysis showed that the article contained less chloroform than declared on the label.

On November 19, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Charles W. Link, trading as the C. W. Link Drug Co., New York, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about November 19, 1932, from the State of New York into the State of Pennsylvania, of a quantity of white pine and tar compound cough syrup which was adulterated and misbranded. The article was labeled in part: "Each fluid ounce contains 4 minims chloroform."

Analysis by this Department showed that the article contained 1.5 minims of chloroform per fluid ounce, and consisted essentially of extracts of plant drugs, small portions of pine tar and a gum, a trace of alkaloids, glycerin, alcohol (5 percent by volume), sugar, and water.

The article was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, in that each fluid ounce was represented to contain 4 minutes of chloroform; whereas each fluid ounce contained less than 4 minims, namely, not more than 1.5 minims of chloroform.

Misbranding was alleged for the reason that the statement, "Each fluid ounce contains 4 minims chloroform", borne on the carton and bottle label, was false and misleading, since each fluid ounce of the article contained less than 4 minims of chloroform. Misbranding was alleged for the further reason that the article contained chloroform and the label failed to bear a statement of the quantity or proportion of chloroform contained therein. Misbranding was alleged for the further reason that certain statements, designs, and devices re-

garding the therapeutic and curative effects of the article, borne on the cartons and bottle labels, falsely and fraudulently represented that it was effective as a reliable remedy for coughs, hoarseness, laryngeal and bronchial inflammation, loss of voice, rawness and soreness resulting from dryness of the throat or air passages; and effective as a treatment, remedy, and cure for bronchitis, hoarseness, loss of voice, and other inflamed conditions of the lungs and air passages.

On November 22, 1934, the defendant entered a plea of guilty, and the court imposed a fine of $75 which was ordered remitted.

M. L. Wilson, *Acting Secretary of Agriculture.*

24040. Misbranding of Old Country Dia-san. U. S. v. Alfred A. Hofmann (Original Old Country Remedy Co.). Plea of guilty. Fine, 5 cents. (F. & D. no. 31525. Sample no. 34207–A.)

This case was based on an interstate shipment of a drug preparation, the labels of which contained unwarranted curative and therapeutic claims.

On May 11, 1934, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Alfred A. Hofmann, trading as the Original Old Country Remedy Co., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about March 15, 1933, from the State of Indiana into the State of Missouri, of a quantity of Original Old Country Dia-san which was misbranded.

Analysis showed that the article consisted of a coarse mixture of plant material, including uva ursi leaves, licorice root, peppermint leaves, buchu leaves, horsetail stems, corn silk, and anise seed.

The article was alleged to be misbranded in that certain statements, designs, and devices regarding its curative and therapeutic effects, appearing on the cartons and in the circulars enclosed in the cartons, falsely and fraudulently represented that it was effective as a treatment, remedy, and cure for inflammation of the kidneys, urinary tract, bladder, prostatitis, enuresis (bed wetting), Bright's disease, rheumatism, and metabolic diseases such as gout and diabetes; effective as a beneficial and health giving drink for all urinary disorders; effective as a healing remedy in ailments of the bladder, kidneys, and urinary tract, and diseases of metabolism such as diabetes and gout; effective to get sick people well and to restore health; effective as a remedy for enuresia (bed wetting), scalding urine, retention of urine and difficult urination in children; effective to alleviate and cure human ills, and to produce lasting beneficial results; effective as a remedy for kidney troubles and to help nature to exchange waste products and poisons from each cell and to carry them off through the kidneys and bring to the cells new, fresh blood, nourishment, and the mineral elements needed to maintain health; effective to fight the poisons or enemies of health; to build and protect health, to act as a cleanser to dissolve the poisons and to get under it and lift it off from the walls of the blood vessels and kidneys; as wonderfully effective in giving relief to all sufferers of kidney ailments, urinary tract and bladder troubles, Bright's disease, prostatitis, enuresis (bed wetting), metabolic diseases such as rheumatism, gout, diabetes, and dropsy; effective to act as a tonic and bath for each and every cell, and by flushing the kidneys to assist in elimination and to give relief in disorders such as diabetes, a disease of the pancreas, nephritis, an inflammation of the kidneys, cystitis, an inflammation of the bladder; urethritis, inflammation of the duct of the bladder; diabetes insipidus and diabetes mellitus; nephritis (Bright's disease); prostatitis, a swelling of the prostate gland; diseases of the urinary organs such as gravel, chronic cystitis, diseases of the prostate, leucorrhea, and catarrah of the bladder, kidney irritation, sciatica, and pleurisy; effective to allay nausea and relieve spasmodic pains of the stomach and bowels; effective as a treatment for renal diseases, gonorrhea, and dropsy of heart diseases, and to remove any foreign mucus that may be clogging and poisoning the digestive organs; effective to cure kidney complaints and to assist nature in its purifying process; effective as a boon to sufferers afflicted with ailments, and of great value to the human body; effective as an ideal preparation as a nature cure, and to assist nature to eliminate impurities from the system and relieve irritation and congestion; effective as helpful for liver trouble and to assist the glands and organs in their functions of purification and elimination; effective as a healthy drink conducive to natural living and well being; effective to reduce sugar content in urine; effective as a treatment for lumbago and of great value in

acute ailments, bronchial congestion and chills; and effective as a treatment, remedy, and cure for sugar diabetes, stomach trouble, and nervousness.

On December 26, 1934, the defendant entered a plea of guilty and the court imposed a fine of 5 cents.

M. L. Wilson, *Acting Secretary of Agriculture.*

24041. Misbranding of Pankoka. U. S. v. Pankoka Health Foods, Inc., Victor deVilliers, Nicholas P. Williams, Panaytos D. Panoulias, and Dr. Demetrius Mitsakos. Plea of guilty. Fines, $150. (F. & D. no. 31533. Sample nos. 28237-A, 28254-A.)

This case was based on shipments of Pankoka, a product consisting essentially of chocolate, which was labeled with unwarranted curative and therapeutic claims. The label also represented that the article was a health food and complied with all pure food laws, which claims were false and misleading since it was not a health food and did not comply with the Federal Food and Drugs Act. The label failed to bear a statement of the quantity of the contents.

On September 5, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Pankoka Health Foods, Inc., a corporation, trading at New York, N. Y., and Victor deVilliers, Nicholas P. Williams, Panaytos D. Panoulias, and Dr. Demetrius Mitsakos, officers of the said corporation, alleging shipment by said defendants, in violation of the Food and Drugs Act as amended, on or about May 8 and May 15, 1933, from the State of New York into the State of Illinois of quantities of Pankoka which was misbranded.

Analysis by this Department showed that the article was chocolate, sweetened and flavored.

The article was alleged to be misbranded under the provisions of the law applicable to drugs in that certain statements, designs, and devices regarding its therapeutic and curative effects, appearing on the boxes containing the article and in a circular and booklet enclosed therein, falsely and fraudulently represented that it was effective to insure health, to fortify and protect health, and to resist disease; effective as a health food; effective to throw off disease germs and bacteria in the early stages; effective to restore and constantly rebuild abused, broken down, and worn organs of the civilized human body; effective to build better and stronger bodies; effective to feed the vital cells, to soothe and strengthen the stomach and throughout the alimentary canal; effective to enrich the blood and strengthen and create a healthy condition of the heart, nerves and brain, to cause the entire system to become healthy and strong, the body vigorous, to calm the nerves and to make a great resistance to disease, to keep the person well, healthy, happy and normal; effective to relieve countless ailments, permanently and lastingly; effective as a relief for common and serious ailments such as nervous, run down, worn out, and exhausted cases, young or old, underweight, general debility, weakness, paleness (lack of blood), sickly, undernourished and underweight children, catarrh, influenza, grippe, indigestion, dyspepsia, digestive disturbances, constipation, chronic constipation, stomach trouble, intestinal disturbances, gastric complaints, lung infections, lumbago, rheumatism, neuritis, diabetes, acidosis, glycosuria, lost health, shattered nerves, impaired vitality, tuberculosis, chronic stomach troubles, hemorrhages, kidney complaint, kidney stones, stomach pains, throat trouble, gastric ulcers, nervousness, and bronchial and lung infections; effective to renew strength, endurance, and vigor and to fortify pregnant and nursing mothers with vital body elements; effective as a life saver; effective to rebuild and restore energy; and effective as the way to glorious health; to keep healthy folk well, and to give strength and build tissue in ailing people, to energize and to assist in restoring health to undernourished sickly men, women and children; and as a great aid in overcoming chronic constipation, and to stimulate the flow of gastric juices.

The article was also alleged to be misbranded under the provisions of the law applicable to food in that the statements, "Pankoka complies with all requirements of Pure Food Laws", "Health Food", "Health Foods" "Richest of Vitamins and food values", appearing in the labeling, were false and misleading in that they represented that the article was a health food and conformed to all requirements of the Food and Drugs Act of June 30, 1906; whereas

it was not a health food and did not conform to all the requirements of the Food and Drugs Act of June 30, 1906. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On September 26, 1934, all defendants entered pleas of guilty, and the court imposed fines in the total amount of $150.

M. L. WILSON, *Acting Secretary of Agriculture.*

24042. Misbranding of Petrolene White Petroleum Jelly. U. S. v. 6,888 Jars of Petrolene White Petroleum Jelly. Default decree of condemnation and destruction. (F. & D. no. 31963. Sample no. 67116–A.)

This case involved an interstate shipment of a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling, and because the jars contained less than declared on the label.

On February 13, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 6,888 jars of Petrolene White Petroleum Jelly at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about November 9, 1933, by the Western Petroleum Co., from Philadelphia, Pa., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Penn City Oil Company, Philadelphia, Pennsylvania."

Analysis showed that the article consisted of white petrolatum.

The article was alleged to be misbranded in that the statement on the label, "Net 2 Ounces", was false and misleading, since the weight of the contents of the jar was less than 2 ounces each. Misbranding was alleged for the further reason that the following statements on the jar label were statements regarding the curative or therapeutic effects of the article and were false and fraudulent: "Remedy for * * * wounds * * * skin diseases, hemorrhoids * * * etc. Taken internally will relieve cough * * * sore throat, etc."

On January 16, 1935, no claimant appearing, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24043. Misbranding of Walker's Old Indian Health Tonic. U. S. v. 288 Bottles of Walker's Old Indian Health Tonic. Default decree of condemnation and destruction. (F. & D. no. 32000. Sample no. 50774–A.)

This case involved a drug preparation the labels of which contained unwarranted curative and therapeutic claims.

On February 19, 1934, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel (amended April 4, 1934), praying seizure and condemnation of 288 bottles of Walker's Old Indian Health Tonic at Dothan, Ala., alleging that the article had been shipped in interstate commerce on or about February 6 and February 16, 1934, by the Walker Co., from Atlanta, Ga., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis by this Department showed that the article consisted essentially of magnesium sulphate, ferric chloride, and quinine sulphate, dissolved in water.

The article was alleged to be misbranded in that the following statements on the bottle labels, regarding its curative and therapeutic effects, were false and fraudulent: "Health * * * The Unfailing Remedy for Laziness and a Drowsy, Tired, Sleepy Feeling. Relieves Indigestion, * * * Biliousness * * * Dizziness, Sick Headache, Numbness or Chills, Kidney or Bladder Troubles, * * * Piles, Jaundice, Dropsy, Loss of Appetite, Weakness, Tired Feeling, Stimulates and Purifies the Blood. Directions for Taking: Adults should take a tablespoonful in a little water, every two hours until it acts well on the bowels, then continue taking it three times a day, before meals. Should it act too freely, reduce the dose. Children in proportion to age."

On June 5, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24044. Alleged adulteration and misbranding of ether. U. S. v. 15 Cans of Ether. Tried to the court. Judgment for the claimant. Libel dismissed. (F. & D. no. 32008. Sample no. 49116-A.)

On February 20, 1934, the United States attorney for the Middle District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cans of ether at Macon, Ga., alleging that the article had been shipped in interstate commerce on or about January 11, 1934, by Merck & Co., Inc., from Rahway, N. J., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "1 lb. Ether Merck U. S. P. X. Merck & Co., Inc., New York."

Analysis of a sample consisting of 10 cans showed the presence of peroxide in one of the cans examined.

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, its strength, quality, and purity differed from the standard prescribed by that authority, and its own standard was not stated on the label.

Misbranding was alleged in that the statement on the label, "Ether * * * USP X", was false and misleading and deceived and misled the purchaser.

On January 10, 1935, Merck & Company, Inc., having appeared as claimant for the property, the case came on for trial before the court. Evidence on behalf of the Government and the claimant was submitted and argument of counsel heard, at the conclusion of which the court handed down the following judgment (Deaver, *district judge*):

"I find that the United States failed to carry the burden imposed upon it by law. I find that the Government is not entitled to the relief prayed. It is, therefore, *Decreed*, that the prayers of said bill for libel be denied; that the merchandise seized under said libel be delivered to the claimant, Merck & Co., Inc.; and that the libel be dismissed."

M. L. Wilson, *Acting Secretary of Agriculture.*

24045. Misbranding of Dr. G. B. Williams' Pills. U. S. v. 141 Packages of Dr. G. B. Williams' Pills. Default decree of condemnation and destruction. (F. & D. no. 32075. Sample no. 49435-A.)

This case involved an interstate shipment of a drug preparation, the labels of which contained unwarranted curative and therapeutic claims.

On or about March 6, 1934, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 141 packages of Dr. G. B. Williams' Pills at Tampa, Fla., alleging that the article had been shipped in interstate commerce on or about February 13, 1934, by the Interstate Drug Co. from Quitman, Ga., and charging misbranding in violation of of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of compounds of mercury and antimony, and ingredients derived from plant drugs including aloe, podophyllum, and an alkaloidal drug.

The article was alleged to be misbranded in that the following statements regarding its curative or therapeutic effects were false and fraudulent: (Bottle label) "Recommended for * * * biliousness, and all troubles arising from inactive liver. * * * Dose: 1 to 3 every other night at bedtime; children under ten years old, one-half pill in honey or syrup"; (carton) "Recommended for the relief of discomfort due to Biliousness, * * * or any Liver disorder."

On December 22, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24046. Misbranding of Nunn's Black Oil Healing Compound. U. S. v. John A. Houghton and George W. Reed (Dr. Nunn's Black Oil Co., Inc.). Plea of guilty. Fine, $25. (F. & D. no. 32090. Sample no. 35938-A.)

This case involved a drug preparation which had been sold under a guaranty that it complied with the Food and Drugs Act, but which was misbranded, since the label contained unwarranted curative and therapeutic claims, and which was subsequently shipped in interstate commerce.

On October 6, 1934, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court

an information against John A. Houghton and George W. Reed, copartners, trading as Dr. Nunn's Black Oil Co., Inc. at Salt Lake City, Utah, alleging that on or about November 1, 1932, and January 5, 1933, the said defendants had sold and delivered to the Smith Faus Drug Co., Salt Lake City, Utah, a number of large bottles and small bottles of Nunn's Black Oil Healing Compound; that at the time of sale and delivery the defendants had guaranteed that the article complied with the Federal Food and Drugs Act; and that on December 31, 1932, January 26, and March 20, 1933, a number of large and small bottles of the product, in the identical condition as when received, were shipped in interstate commerce by the Smith Faus Drug Co., from the State of Utah into the State of Colorado; and that it was misbranded in violation of the said act as amended.

Analysis showed that the article consisted of mineral oil and a fixed oil containing a sulphur compound.

The article was alleged to be misbranded in that certain statements in the labeling, regarding its therapeutic and curative effects, falsely and fraudulently represented that it was effective, with regard to the small bottles, as a healing remedy for sores, scratches, and piles; with regard to the large bottles, as a healing remedy for sores, scratches, fistulas, withers, poll evil, piles, scalded heads on children, skin eruptions, colic and bloat; and effective as a remedy for coughs, distemper and bronchitis, in horses and cattle, and as a remedy for roup in chickens.

On November 3, 1934, a plea of guilty was entered and the court imposed a fine of $25.

M. L. Wilson, *Acting Secretary of Agriculture.*

24047. Misbranding of Ray-X. U. S. v. Ray-X Corporation, Arley R. Hartzog, and Charles A. Henry. Pleas of nolo contendere by defendants Hartzog and Henry; pending as to Ray-X Corporation. Fines, $200. (F. & D. no. 32105. Sample nos. 4608–A, 26609–A, 36612–A.)

This case was based on interstate shipments of a product labeled with unwarranted curative and therapeutic claims. The article was also labeled to convey the false and misleading impression that it possessed definite radiant energy.

On August 23, 1934, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Ray-X Corporation, Arley R. Hartzog, and Charles A. Henry, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about February 27, 1933, from the State of Ohio into the State of Indiana, and on or about March 17 and March 31, 1933, from the State of Ohio into the State of Illinois of quantities of Ray-X which was misbranded.

Analyses of samples of the article showed that it consisted of water containing minute proportions of salts in solution.

The article was alleged to be misbranded in that the statement "Ray-X", together with the design and devices of a sun with lines radiating from it, borne on the cases and bottle labels, were false and misleading in that they represented that the article possessed definite radiant energy; whereas it did not possess definite radiant energy. Misbranding was alleged for the further reason that certain statements, designs, and devices regarding the therapeutic and curative effects of the article falsely and fraudulently represented that it was effective to insure new life; effective to insure health; effective as a treatment, remedy and cure for gall stones, infected liver, arthritis, poisons in the system, severe headaches in the back of the head, digestive disorders, bowel trouble, nervous condition, anemia, low blood pressure, general physical disability, stomach ulcers, diabetes, eczema, abscessed kidney, irregular menstruation, streptococcus infection, jaundice, influenza, acute pyelitis, diphtheria, gall bladder infections, duodenal ulcers, gastric ulcer, prostate glandular trouble, tuberculosis, dropsy, fever, super-acidity, infected navel, sinus infection, acute indigestion and all streptococcus infections; and effective as a wonderful blood purifier and wonderful system normalizer.

On September 19, 1934, defendants Hartzog and Henry entered pleas of nolo contendere to the information, and the court imposed a fine of $100 against each defendant. A final adjudication was not made with respect to the Ray-X Corporation.

M. L. Wilson, *Acting Secretary of Agriculture.*

24048. Misbranding of Williams S. L. K. Formula. U. S. v. Harry L. Williams (Williams Laboratories). Plea of guilty. Fine, $50. (F. & D. no. 32111. Sample no. 41612–A.)

This case was based on an interstate shipment of a drug preparation, the labels of which contained unwarranted curative and therapeutic claims.

On May 24, 1934, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Harry L. Williams, trading as Williams Laboratories, Kansas City, Mo., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about July 7, 1933, from the State of Missouri into the State of Arkansas, of a quantity of Williams S. L. K. Formula which was misbranded.

Analysis showed that the article was a dark brown liquid consisting chiefly of water, glycerin, alcohol, and small amounts of plant extractives, an amodin-bearing drug, hexamethylenetetramine, pepsin, and very small amounts of strychnine and quinine.

The article was alleged to be misbranded in that certain statements, designs, and devices regarding its therapeutic and curative effects, appearing on the bottle labels, falsely and fraudulently represented that it was effective as a treatment, remedy, and cure for stomach, liver and kidney disorders, biliousness, dyspepsia, distress after eating, sick headaches, rheumatism, and general weakness.

On November 16, 1934, the defendant entered a plea of guilty, and the court imposed a fine of $50.

M. L. Wilson, *Acting Secretary of Agriculture.*

24049. Misbranding of Navajo Indian Herbal Teas. U. S. v. Navajo Industries Co., Inc., and Paul Anacker (alias Dr. Yosmite Nabona). Tried to a jury. Verdict of guilty. Fine, $400 on one count. Judgment suspended on remaining counts. (F. & D. no. 32116. Sample nos. 42051–A to 42056–A, incl.)

This case was based on a shipment of six lots of Navajo Indian Herb Teas, all of which were labeled with general curative and therapeutic claims. Five of the six products contained circulars recommending them respectively for asthma, hardening of the arteries, neurasthenia, stomach catarrh, and stomach trouble. Examination showed that the products contained no medicinal agents capable of producing the curative effects claimed.

On July 2, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Navajo Industries Co., Inc., and Paul Anacker (alias Dr. Yosmite Nabona), alleging shipment by said defendants on or about March 28, 1933, from the State of California into the State of Colorado of quantities of Navajo Indian Herbal Teas which were misbranded.

Analyses showed that the product designated for asthma consisted essentially of cut, dried herbs including elder flowers and coltsfoot; that the product designated for hardening of the arteries consisted essentially of cut, dried herbs including yarrow and horsetail; that the product designated for neurasthenia consisted essentially of cut, dried herbs including camomile, lavender, and mint; that the product designated for stomach catarrh consisted essentially of cut, dried herbs including yarrow, camomile, centaury, and mint; that the product designated for stomach trouble consisted essentially of cut, dried herbs, including camomile, elder, yarrow, and mint; and that the remaining product consisted essentially of fenugreek and aloe.

The articles were alleged to be misbranded in that certain statements, designs, and devices regarding their curative and therapeutic effects falsely and fraudulently represented that they were effective to insure health and strength for the sick and ailing; effective as a health medicine; effective to heal the sick, and effective as a treatment for any condition and any disease. One of the products was falsely and fraudulently represented to be further effective to eliminate poisons in the system through the kidneys and bladder, and the remaining products were falsely and fraudulently represented to be further effective as treatments, remedies and cures, respectively, for asthma, hardening of the arteries, neurasthenia, stomach catarrh, and stomach trouble.

On November 20, 1934, the case came on for trial before the court and a jury. On November 21, 1934, a verdict of guilty on all counts was returned, and the court imposed a fine of $200 against the corporation and $200 against Yosmite

Nabona (alias Paul Anacker) on one count of the information, and ordered that judgment be arrested on the remaining five counts. On December 5, 1934, Yosmite Nabona was placed on probation for 2 years on condition that he pay the fine within that period.

M. L. WILSON, *Acting Secretary of Agriculture.*

24050. Adulteration and misbranding of nitroglycerin tablets and morphine sulphate tablets. U. S. v. Glens Falls Pharmacal Co., Inc. Plea of guilty. Fine, $40. (F. & D. no. 32198. Sample nos. 34614-A, 34617-A.)

This case was based on an interstate shipment of nitroglycerin tablets and morphine sulphate tablets that contained smaller amounts of the said drugs than declared on the labels.

On October 30, 1934, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Glens Falls Pharmacal Co., Inc., Glens Falls, N. Y., alleging shipment by said company on or about May 8, 1933, from the State of New York into the State of Vermont of quantities of nitroglycerin tablets and morphine sulphate tablets which were adulterated and misbranded. The articles were labeled in part: "Tablets H Nitro-Glycerine $\frac{1}{100}$ gr. Manufactured by Glens Falls Pharmaceutical Co. Incorporated Glens Falls, N. Y."; "Morphine Sulphate ⅛ Grain Poison Glens Falls Pharmacal Co., Inc., Glens Falls, N. Y."

The articles were alleged to be adulterated in that their strength and purity fell below the professed standard or quality under which they were sold in that each of the nitroglycerin tablets was alleged to contain one one-hundredth of a grain of nitroglycerin, whereas each of said tablets contained less than one one-hundredth of a grain, namely, not more than 0.0072 grain (not more than one one-hundredth and fortieth of a grain) of nitroglycerin; and each of the morphine sulphate tablets was represented to contain one-eighth of a grain of morphine sulphate, whereas each of said tablets contained less than one eighth of a grain, namely, not more than 0.11 grain (not more than one ninth of a grain) of morphine sulphate.

Misbranding was alleged for the reason that the statements, "Tablets Nitro-Glycerine 1/100 gr." and "Morphine Sulphate 1/8 Grain", borne on the labels, were false and misleading since the tablets contained less of the said drugs than so represented.

On November 9, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $40.

M. L. WILSON, *Acting Secretary of Agriculture.*

24051. Misbranding of Mother Gray's Sweet Powders for Children. U. S. v. 143 Boxes of Mother Gray's Sweet Powders for Children. Default decree of condemnation and destruction. (F. & D. no. 32268. Sample no. 66161-A.)

This case involved a drug preparation, the labels of which contained unwarranted curative and therapeutic claims.

On March 9, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 143 boxes of Mother Gray's Sweet Powders for Children at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about January 11, 1934, by Allen S. Olmsted Co., from LeRoy, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of sugar, starch, licorice, sulphur, sodium bicarbonate (one tenth of a grain per powder), and a small proportion of a calcium compound.

The article was alleged to be misbranded in that the following statements regarding its curative or therapeutic effects, appearing in the labeling, were false and fraudulent: (Carton) "Act on the Stomach, Liver * * * In intestinal and stomach disturbances the powders are most beneficial, as they tend to cleanse the digestive system"; (envelop) "These powders act on the Stomach * * * and Liver. They * * * tend to regulate the bowels. Appetite and digestion are improved so that children frequently gain in flesh"; (leaflet) "Act on the Stomach, Liver * * * If children are sick and ailing, these powders will afford relief * * * Many Mothers give them to their children as a corrective medicine. Use according to directions when your child is cross and complaining. In intestinal and stomach disturbances the

powders are most beneficial, as they tend to cleanse the digestive system. * * * [Testimonial] 'My little three year old girl who was very puny * * * very satisfactory in every case.'"

On October 24, 1934, no claimant having appeared judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24052. Misbranding of Acco Aspirin Tablets. U. S. v. 24 Cartons of Acco Aspirin Tablets. Default decree of condemnation and destruction. (F. & D. no. 32661. Sample no. 68539–A.)

This case involved an interstate shipment of aspirin tablets, the labels of which bore unwarranted curative and therapeutic claims.

On May 2, 1934, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 cartons, each carrying 20 packages of Acco Aspirin Tablets at Montgomery, Ala., alleging that the article had been shipped in interstate commerce on or about March 15, 1934, by Feldman & Martin, Inc. [New York, N. Y.], and charging misbranding in violation of the Food and Drugs Act as amended. The packages were labeled: "Acco Aspirin Tablets * * * Albany Chemical Company, Albany, New York."

The article was alleged to be misbranded in that the following statements contained in the circular shipped with the article, regarding its curative or therapeutic effects, were false and fraudulent: "It is highly recommended for the relief of * * * Painful Periods, Rheumatic Conditions * * * And similar ailments * * * Painful Periods Etc. Two Tablets One Hour after Meals repeated in an Hour if not completely relieved. Toothache Earache same dosage as for Headache. Rheumatism Lumbago One or Two Tablets three times daily One Hour after each Meal. Sciatica * * * Two Tablets three times daily One Hour after each Meal."

On August 6, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24053. Misbranding of Rogers' Limber-Neck Knocker, Rogers' Roup Knocker, and Rogers' Cholera Knocker. U. S. v. 7 Bottles of Rogers' Limber-Neck Knocker, et al. Default decree of condemnation and destruction. (F. & D. nos. 32828, 32829, 32830. Sample nos. 65760–A, 65761–A, 65762–A.)

This case involved drug preparations which were misbranded because of unwarranted curative and therapeutic claims contained in the labeling. The labeling was further objectionable since all products were represented to contain 10 percent of alcohol, and the Cholera Knocker was represented to contain 1 percent of chloroform; whereas the Limber-Neck Knocker contained not more than 1 percent of alcohol, the other products contained no alcohol, and the Cholera Knocker contained no chloroform.

On June 11, 1934, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 7 bottles of Rogers' Limber-Neck Knocker, 6 bottles of Rogers' Roup Knocker, and 8 bottles of Rogers' Cholera Knocker at Burlington, Iowa, alleging that the articles had been shipped in interstate commerce on or about September 26, 1933, by the Rogers Poultry Remedy Co., from Palmyra, Mo., and charging misbranding in violation of the Food and Drugs Act as amended.

Analyses showed that the Limber-Neck Knocker consisted essentially of sodium nitrate, ammonia, a carbonate, alcohol (1 percent), a small proportion of plant extractive material, and water; that the Roup Knocker consisted essentially of ammonium nitrate, potassium chromate, a calcium compound, a small proportion of plant extractive material and water (it contained no alcohol); that the Cholera Knocker consisted essentially of sodium, ammonium, and calcium compounds including a nitrate and a carbonate, phenol, a small proportion of plant extractive matter, and water (it contained no alcohol nor chloroform).

The articles were alleged to be misbranded in that the statements, "This Medicine Contains 10% Alcohol" on the labels of the Limber-Neck Knocker and Roup Knocker, and the statement "Contains 10% Alcohol and 1% Chloroform", on the label of the Cholera Knocker, were false and misleading. Misbranding was alleged for the further reason that the following statements regarding the curative or therapeutic effects of the articles were false and fraudulent: (Limber-Neck Knocker) "Limber-Neck Knocker: A Remedy and

Prevention for Limber-Neck * * * Separate sick ones * * * If they won't drink the water give them 5 drops of full strength medicine * * * Keep sick chickens in a cool, dry place and out of the dew. Symptoms Weakness in back, can't walk, something like rheumatism, wings spread out on the ground, head lies on the ground, no control of the neck, neck limber, slime runs from mouth, feathers loose, tremble and shake, eyes closed. This is the most dangerous disease of fowls, and it takes a day or so before you can stop the disease, as it takes the medicine this length of time to get the system under its influence. Keep them in a dry shady place. Keep up the medicine three or four days after they get better, using one-half the dose"; (Roup Knocker) "Roup Knocker: For Roup, Diphtheria, Bronchitis and All Throat Troubles. Roup—Symptoms Sneezing and wheezing, gasping, cold in head; discharge from the eye, eye swelled, comb turns black, they hide away from the other fowls, rub head on plumage. Cheesy substance in mouth. Mix one part medicine and two parts coal oil and rub on the head and mop the throat. * * * Separate sick ones * * * If they won't drink the water give them 5 drops of full strength medicine * * * Keep sick chickens in a cool dry place and out of the dew. * * * If they are too sick to eat dissolve one teaspoonful into one-half (½) teacupful of water, and give them five drops for each month old, four or five times a day"; (Cholera Knocker) "Cholera Knocker A Remedy for Cholera Diarrhea, Dysentery and all Bowel Trouble * * * Before giving Medicine be sure your chicken has cholera—read symptoms on side of carton. Cholera Symptoms The urates, which is that portion of the excrement thrown off by the kidneys, and which in healthy fowls is white in color, becomes yellow, or even green in color. The sick bird shows great thirst, shows a lack of life and spirits and mopes around with ruffed feathers, half asleep, etc. The comb becomes pale or very dark and the fowl has a very poor appetite. * * * Separate sick ones * * * If they won't drink the water give them 5 drops of full strength medicine * * * Keep sick chickens in a cool, dry place and out of the dew * * * If they are too sick to eat, dissolve one teaspoonful into one-half (½) teacupful of water, and give them five drops for each month old, four or five times a day."

On November 13, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the products be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24054. Misbranding of Parkelp. U. S. v. Philip R. Park, Inc. Plea of guilty. Fine, $50 and costs. (F. & D. no. 32878. Sample no. 5392-A.)

This case was based on an interstate shipment of a drug preparation, the labels of which contained unwarranted curative and therapeutic claims. Analysis showed that the article contained less magnesium and copper than declared on the label.

On September 22, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Philip R. Park, Inc., trading at Chicago, Ill., alleging shipment by said company on or about August 5, 1933, from the State of Illinois into the State of Michigan of a quantity of Parkelp which was misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: (Circular) "Parkelp—Table Comparison with other Foods Organic Minerals * * * present in three teaspoonfuls of Parkelp Grains * * * Manganese 1/120 Copper 1/200."

Analysis showed that the article consisted essentially of a kelplike plant material containing small proportions of compounds of potassium, sodium, calcium, magnesium, iron, sulphur, iodine, chlorine, and phosphorus. It also contained a manganese compound equivalent to one one-thousandth of a grain of manganese and a copper compound equivalent to one one-thousandth of a grain of copper per 3 teaspoonfuls of 60 grains each.

The article was alleged to be misbranded in that certain statements, designs, and devices regarding its therapeutic and curative effects, borne on the can label and in an accompanying circular, falsely and fraudulently represented that it was effective as a vigor builder, as a preventive medicine to insure a normal state of health and happiness, as a balanced diet supplying all the necessary minerals and vitamins in their proper form, and as a preventive of and a treatment for obesity, goiter, rickets, nervousness, anemia, eczema, low vitality, asthma, rheumatism, neuritis, arthritis, and many female troubles; and effective as a combination of minerals to give the effects of vitamins A, B, D, E, and G, and to supply the organic minerals and vitamins required by the human body.

Misbranding was alleged for the further reason that the statements, "Manganese 1/120 Grains" and "Copper 1/200 Grains" contained in the circular, were false and misleading since 3 teaspoonfuls of the article contained less than one one-hundredth and twentieth of a grain of manganese and less than one two-hundredth of a grain of copper, namely, not more than one one-thousandth of a grain each of manganese and copper.

On December 6, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $50 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

24055. Misbranding of PX. U. S. v. PX Products Co. and Luther D. Thomas. Pleas of guilty. Fine, $200. (F. & D. no. 32901. Sample nos. 56012–A to 56017–A, incl.)

This case was based on interstate shipments of a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling.

On January 15, 1935, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the PX Products Co., a corporation, and Luther D. Thomas, Detroit, Mich., alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about September 15, 1933, from the State of Michigan into the State of Illinois of quantities of PX which was misbranded.

Analysis showed that the article consisted essentially of zinc, sodium and aluminum chlorides and sulphates, and borax dissolved in water.

The article was alleged to be misbranded in that certain statements, designs, and devices regarding its curative and therapeutic effects, appearing on the bottle label and carton and in a circular and leaflet accompanying the article, falsely and fraudulently represented that it was effective as a treatment, remedy, and cure for leucorrhea, skin affections, eczema, pimples, rashes, boils, pus-exuding sores (infections), infection, sores, certain other skin affections, acne, discharging sores, sore throat, tonsilitis, pyorrhea, and trench mouth; effective as a preventive of infection; effective to give immediate benefit in average cases, and as a prompt corrective in stubborn cases; and effective as a treatment, remedy, and cure for any skin infection.

On February 16, 1935, the PX Products Co., by Luther D. Thomas, and Luther D. Thomas entered pleas of guilty and the court imposed a fine against the PX Products Co., of $200.

M. L. WILSON, *Acting Secretary of Agriculture.*

24056. Adulteration and misbranding of Kal. U. S. v. The Makers of Kal, Inc., and Bernard Ackerman. Plea of nolo contendere on behalf of the corporation. Plea of guilty on behalf of Bernard Ackerman. Fines, $153. (F. & D. no. 32909. Sample no. 43026–A.)

This case was based on an interstate shipment of a drug preparation, the labels of which contained unwarranted curative and therapeutic claims. The article was essentially a drug, but was falsely represented to be a food, and contained smaller proportions of certain ingredients than declared on the label.

On November 6, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against The Makers of Kal, Inc., and Bernard Ackerman, Los Angeles, Calif., alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about May 18, 1933, from the State of California into the State of New York of a quantity of Kal which was adulterated and misbranded.

Analysis showed that the article consisted of a mixture of powdered grains including rice, and calcium phosphate.

The article was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, since it was represented to contain 6.68 percent of calcium and 4.59 percent of phosphorus; whereas it contained not more than 3.9 percent of calcium, and not more than 3.66 percent of phosphorus.

Misbranding was alleged for the reason that the statements, "Kal The Calcium Phosphorus Diet * * * Certified Mineral Analysis * * * Calcium 6.68% * * * Phosphorus 4.59%", borne on the packages, and the statement, "Kal; it is a food, not a drug, not a medicine or a stimulant", appearing in the circular shipped with the article, were false and misleading, since the article contained less than 6.68 percent of calcium, less than 4.59 percent of

phosphorus, and was not a food but was a drug and a medicine. Misbranding was alleged for the further reason that certain statements, designs, and devices regarding the curative and therapeutic effects of the article, appearing on the label of the packages and in a circular enclosed therein, falsely and fraudulently represented that it was effective as a preventive of diseases resulting from deficiency of calcium, such as dental decay, rickets, pyorrhea, acidosis, migraine headaches, asthma, hay fever, menstrual disorders, eczema, some forms of anemia, nervousness and irritability; effective as a help to the pregnant or nursing mother or convalescent; effective as a preventive of diabetes, kidney disease, arterio sclerosis (hardening of the arteries) and any of the degenerative diseases; effective as a remedy for mineral deficiency diseases, such as tooth decay, acidosis, profound nervous irregularities, menstrual disorders, rickets, anemia, pyorrhea, glandular disorder, abnormal blood pressures, asthma, hay fever, migraine headache, tuberculosis; and effective to supply vital elements necessary to the restoration of health, to overcome autotoxemia, to end results of constipation and acidity from any cause, to relieve cramps, flooding and other menstrual symptoms in women, to reduce acidity in the body, to act as an alkalinizer and as a food tonic, to serve as a natural aid in the digestive and eliminative processes; and effective to assure life and health.

On February 4, 1935, a plea of nolo contendere was entered on behalf of the defendant corporation, and a plea of guilty was entered by Bernard Ackerman; whereupon the court imposed a fine of $3 against the corporation and $150 against Bernard Ackerman.

M. L. WILSON, *Acting Secretary of Agriculture.*

24057. Misbranding of Mild-O-Line. U. S. v. John F. Class Inc., Granville Class, and Ernest C. Slater. Pleas of guilty. Fines, $60. (F. & D. no. 32911. Sample no. 39199–A.)

This case was based on an interstate shipment of a drug preparation, the labeling of which contained unwarranted claims regarding its alleged curative, therapeutic, and germicidal properties.

On October 10, 1934, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against John F. Class, Inc., Granville Class, and Ernest C. Slater, Dayton, Ohio, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about August 5, 1933, from the State of Ohio into the State of Georgia, of a quantity of Mild-O-Line which was misbranded.

Analysis by this Department showed that the article consisted essentially of mineral oil, and small amounts of salicylic acid and volatile oils including eucalyptol and methyl salicylate. Bacteriological examination showed that it had no appreciable germicidal effect.

The article was alleged to be misbranded in that certain statements, designs, and devices regarding its therapeutic and curative effects, appearing on the labels of the cartons, falsely and fraudulently represented that it was effective to heal the affected areas, and effective as a treatment for each affliction. Misbranding was alleged for the further reason that the statement on the label, "Has a Powerful Germicidal Effect", was false and misleading, since the article did not have a powerful germicidal effect, and had no appreciable germicidal effect.

On November 21, 1934, a plea of guilty was entered by each of the individual defendants, and on behalf of the defendant company, and the court imposed fines totaling $60.

M. L. WILSON, *Acting Secretary of Agriculture.*

24058. Adulteration of Capsules Mixed Treatment. U. S. v. Atblake Laboratories, Inc. Plea of guilty. Fine, $25. (F. & D. no. 32912. Sample no. 48509–A.)

This case was based on an interstate shipment of a drug preparation which contained certain therapeutic agents greatly in excess of the amount declared on the label.

On October 30, 1934, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Atblake Laboratories, Inc., Syracuse, N. Y., alleging shipment by said company on or about June 13, 1933, from the State of New York into the State of Pennsylvania of a quantity of Capsules Mixed Treatment which were adulterated in violation of the Food and Drugs Act. The article was labeled in part: "'Atblake' * * * Pharmaceuticals

500 Capsules Mixed Treatment * * * Sol. Arsenous and Mercuric Iodides 2 min. * * * Atblake Laboratories, Inc. Laboratories: Syracuse. N. Y."

The article was alleged to be adulterated in that its strength and purity fell below the professed standard or quality under which it was sold in that each capsule was represented to contain 2 minims of solution of arsenous and mercuric iodides, equivalent to one three-hundredth of a grain of arsenic; whereas each tablet contained more than 2 minims, namely, not less than 8.98 minims of solution arsenous and mercuric iodides, equivalent to not less than one seventh of a grain of arsenic.

On November 7, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $25.

M. L. WILSON, *Acting Secretary of Agriculture.*

24059. Misbranding of Ten-In-One. U. S. v. 238 Small Bottles and 118 Large Bottles of Ten-In-One. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 32979. Sample nos. 72513–A, 72514–A.)

This case involved shipments of a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling.

On June 20, 1934, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 238 small bottles and 118 large bottles of Ten-In-One at Kearney, Nebr., alleging that the article had been shipped in interstate commerce on or about February 24 and March 15, 1934, by the France Drug Co., from Forest City, Mo., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of potassium chlorate, phenol, alcohol, and water.

The article was alleged to be misbranded in that the following statements regarding its curative and therapeutic effects, appearing in the labeling, were false and fraudulent: (Bottle label, small size) "For the Treatment and Prevention of Gapes, Colds, Roup and Other Bronchial Diseases of Poultry * * * One bottle to each barrel fed in either morning or afternoon feed will prevent Gaps and keep poultry on good feed. Where Gaps are present use one bottle to each barrel in all feed used until they disappear. In extreme bad cases use 2 bottles to barrel until results are secured, which should be second day,"; (circular) "A Preventive for Bronchial Pneumonia (Commonly Called Gaps)—In Poultry— * * * One bottle mixed in each barrel in either morning or evening feed will prevent Gaps starting in a car and keep birds eating full feed. If Gaps or snotty noses in car, use one bottle in each barrel fed during the day and until the birds all are eating good, which is usually the second day with this treatment. In badly effected cases you can double the dose by using two bottles to each barrel, until condition improves. It is necessary that effected birds get their share of the feed with the remedy. * * * After chicken starts to Gap for breath, they will not eat, * * * pour a little down their throats, then if placed where they can get feed will usually soon eat and can finish their cure in feed. * * * Ten-in-one clears up the throat and lungs, reduces the fever, and birds eat better and have a brighter appearance at unloading dock or after dressed. * * * Start to feed this in your plant when birds are first received and prevent Gaps getting a start. Each dollar spent for Ten-in-one will make you several dollars in saving loss and showing gains"; (bottle, label, large size) "A prevention and treatment of Roup, Gapes, Flu, Colds, Fever, Discharge from Nostrils, Watery Eyes and Bowel Infections * * * Ten-in-one is an aid in keeping poultry healthy. A healthy chick is a profitable fowl. Start your chicks right and keep them healthy"; (leaflet enclosed with large size, headed "Remove this label and paste on jug") "A Treatment and Prevention for Roup, Gapes, Colds, Flu, Fever, Discharge From Nostrils, Watery Eyes, Bowel Infections in Poultry * * * In extreme cases triple the dose * * * Sick Chickens do not eat or drink well. To relieve them make a solution, one-half Ten-in-one and one-half water, pour one-half teaspoonful down throat and wash head of ailing bird, then continue regular treatment."

On November 9, 1934, G. W. Butler, Kearney, Nebr., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

24060. Misbranding of Dr. Fahrney's Liniment. U. S. v. 45 Bottles of Dr. Fahrney's Liniment. Default decree of condemnation and destruction. (F. & D. no. 32986. Sample no. 62247–A.)

This case involved a drug preparation which was misbranded because of unwarranted curative and therapeutic claims on the label.

On June 26, 1934, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 45 bottles of Dr. Fahrney's Liniment at Clarksburg, W. Va., alleging that the article had been shipped in interstate commerce on or about November 17, 1933, by D. Fahrney & Son, from Hagerstown, Md., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of turpentine oil and a sulphureted fatty oil.

The article was alleged to be misbranded in that the following statements regarding its curative and therapeutic effects, appearing in the labeling, were false and fraudulent: (Bottle label) "For Rheumatism, Weak Back, Swelled Joints * * * For Croup, rub the neck and breast well with the Liniment, and apply flannel around the neck and over the breast; the same for Tightness on the breast"; (circular) "The extraordinary effect that this Liniment has upon the human system * * * a cure is affected and often much of the swelling and inflammation is prevented. In all cases much rubbing is necessary for a good result—much rubbing means from fifteen to thirty minutes. This should be done in all cases at least once a day and where there is any numbness or pain, oftener is better. It is best done gently—always rubbing toward the heart * * * The Liniment must be applied freely; if an excess is kept on the parts the glands of skin are constantly stimulated to rapid absorption * * * According as it is kept wet with Liniment, so much faster does recovery advance. * * * Colds. * * * When it settles on the lungs or in the throat. * * * Take a piece of flannel large enough to cover double. Saturate this with the Liniment and apply to chest before, behind, over shoulders and under arms. If the throat is affected, put the same around the neck. In addition to the counter-irritant effect, the fumes are passing off all the time and inhaled through the throat and into the lungs which assists very materially. * * * Hoarseness. Or tightness in the throat or in the lungs is soon relieved by application of this Liniment as described above. It breaks down the inflammation, * * * and starts the proper secretion of fluids. It heals the soreness very rapidly. By using the Cough Syrup with Liniment many severe cases have been cured and even mild cases of consumption. Croup. Our Liniment comes nearest to being a specific for this disease, one of the most annoying of childhood. Use it the same as for sore throat. * * *. Cuts. * * * Whatever the cut, put it in position, cover it with soft linen dressing and pour the Liniment on at once. Sometimes there is smarting for a short time, which soon passes away, and leaves the sore easy and comfortable. If the pieces have been fastened in proper position, the dressing need not be removed till the part is healed and well. * * * The quicker the Liniment is applied to bruises, the better * * * much of the congestion and accumulation of blood to the spot is prevented. This hinders the swelling and hence less work is to be done by the Liniment. Once the swelling is formed in a bruise, it solidifies and must be broken down and carried away. * * * Prompt application of Liniment also prevents the black and blue discoloration. * * * Any sprained joint * * * Weak backs * * * Neuralgia. Rheumatism. Everybody gets these diseases, effecting people in many different ways. There is a close connection between rheumatism and neuralgia, many cases cannot be separated. The constancy of pain at one point is often the only reason for calling it rheumatism. On the other hand, when the pain shifts from one point to another, as from the knee to the foot and then to the jaw, it is called neuralgia. But it is not determined that the cause of both is different. This one thing in common to both—pain—and it is no ordinary pain, often of the most excruciating character. For treatment, three points are important—heat, friction and application of our Peerless Liniment. Many cases of the severest form of both these diseases have been cured by the steady application of this Liniment. * * * It stimulates the circulation of the affected parts and acts on the nerves and muscles, renewing the cells and fibers to a healthy condition. When the pain is violent or severe, it is an excellent plan to cover the part with flannel after applying Liniment freely and then push a hot iron over the flannel—the iron

to be as hot as can be borne. Sciatica. This form of application will cure nearly all cases of Sciatica that awful form of combined neuralgia and rheumatism. It is called Sciatica because it affects the sciatic nerve the largest and longest nerve of the body, hence the trouble is worse than anywhere else. Some of the cases are stubborn and it is necessary to persist in the use of Liniment. It is sure to cure if properly applied and long enough. Whatever form of neuralgia or rheumatism you have, apply our Peerless Liniment and you will not be disappointed."

On February 20, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24061. Adulteration and misbranding of whisky. U. S. v. 52 Cases of Whisky. Decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 33012. Sample no. 66485–A.)

This case involved a product which was sold as medicinal whisky. Analysis showed that it failed to conform to the requirements of the United States Pharmacopoeia, and the package failed to bear on its label a statement of the percentage, by volume, of alcohol contained in the article.

On June 26, 1934, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 52 cases of whisky at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about January 9, 1934, by the Old Kentucky Distillery, Inc., from Louisville, Ky., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Woodbury A Blend of Straight Whiskies For Medicinal Purposes Only."

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the pharmacopoeial specifications in strength, quality, and purity. Misbranding was alleged for the reason that the statement on the label, "For Medicinal Purposes Only", was false and misleading. Misbranding was alleged for the further reason that the package failed to bear on the label a statement of the quantity or proportion of the alcohol contained in the article.

On November 26, 1934, the International Wine & Liquor Corporation, New Orleans, La., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released to the claimant under bond, conditioned that it should not be disposed of until relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

24062. Misbranding of Miller's Rosy. U. S. v. 96 Packages of Miller's Rosy. Decree of condemnation and destruction. (F. & D. no. 33030. Sample no. 66557–A.)

This case involved an interstate shipment of a drug preparation that was misbranded because of unwarranted curative and therapeutic claims appearing on the cartons and in the circulars shipped with the article. The article was further misbranded since the alcohol present was not declared on the carton, and the declaration on the bottle label was inconspicuous.

On July 2, 1934, the United States attorney for the Western District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 96 packages of Miller's Rosy at Alexandria, La., alleging that the article had been shipped in interstate commerce on or about May 14 and May 23, 1934, by John Miller, from Mobile, Ala., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of salicylic acid, olive oil, a volatile oil such as juniper oil, alcohol (33.4 percent), and water.

The article was alleged to be misbranded in that the following statements regarding its curative or therapeutic effects, appearing on the cartons and in an accompanying circular, were false and fraudulent: (Carton) "For * * * Eczema * * * Ingrowing Nails, * * * Ulcers. Pimples * * * etc. For * * * Eczema"; (circular) "Remedy for * * * eczema * * * Preparations strong enough to knock out the diseases caused too much soreness, and those that did not cause soreness lacked the strength to cure. * * * Since the discovery of his preparation Mr. Miller has used it in treating * * * and the several forms of Eczema * * * barber' itch * * * ingrowing nails

* * * ulcers, itching piles, pimples * * * etc. Although not meant to be a cure-all, or to relieve other than diseases of the skin, Mr. Miller's remedy is excellent for piles, for inflammation of the glands * * * As a remedy for toothache it has no equal. It lessens the discomfort of pyorrhea * * * used for nearly everything external." Misbranding was alleged for the further reason that the package failed to bear on the label a statement of the quantity or proportion of the alcohol contained in the article, since no declaration appeared on the carton, and the declaration on the bottle label was inconspicuous.

On January 28, 1935, no claimant having appeared, and the court having found that the allegations of the libel were true and in accordance with the verdict of the jury, judgment was entered ordering that the product be condemned and destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24063. Misbranding of Kohler One Night Cough Syrup. U. S. v. 22 Bottles and 14 Bottles of Kohler One Night Cough Syrup. Default decree of condemnation and destruction. (F. & D. no. 33038. Sample nos. 72148-A, 72149-A.)

This case involved a shipment of Kohler One Night Cough Syrup, described in the labeling as "this reliable old remedy." This description, together with directions for adults and particularly children, implied that it was safe and appropriate when, as a matter of fact, it contained morphine sulphate and cannabis, both habit-forming drugs, and an antimony compound, a dangerous substance. The labels bore also unwarranted curative and therapeutic claims.

On July 2, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 36 bottles of Kohler One Night Cough Syrup at St. Louis, Mo., alleging that the article had been shipped in interstate commerce, on or about November 6, 1933, and January 18 and April 9, 1934, by the Kohler Manufacturing Co., from Baltimore, Md., and charging misbranding in violation of the Food and Drugs Act as amended.

The libel charged that the article was misbranded in that the following statements in the labeling were false and misleading: (Carton) "This reliable, old remedy has been successfully used for generations"; (carton and bottle) "Directions * * * Dose—One-half teaspoonful 3 times a day and on going to bed. Child 5 years old. 15 drops; 1 year old, 5 drops. In severe cases, double the above doses"; (circular) "Directions * * * Dose for an adult: Half teaspoonful three times a day and on going to bed. Dose for children: Ten years old—20 drops. Five years old—15 drops. One year old—5 drops. Note:—Some individual cases require more, others less. The quantity for each can best be learned by actual use. * * * Recommend Kohler One Night Cough Syrup to your friends as an old reliable remedy. Tell them to ask for it by name."

Misbranding was alleged for the further reason that the following statements in the labeling were statements regarding the curative or therapeutic effects of the article and were false and fraudulent: (Carton and bottle) "Directions Dose—One-half teaspoonful 3 times a day and on going to bed. Child 5 years old, 15 drops; 1 year old, 5 drops. In severe cases, double the above doses"; (circular) "Usually gives quick relief in the following: In Asthmatic Cough—Take during and after paroxysm. Keep the body and feet warm. In Bronchial Irritations—(cough with tickling sensation.) Take small doses at short intervals until the phlegm is loosened and thrown off. In affected throat—of the ordinary variety incident to colds and In hoarseness, Impairment of Voice, etc., due to the same cause, take the usual dose every two hours. In Whooping Cough—Give a dose according to the age of the child after each coughing spell. Take every precaution against the child catching cold. Keep the bowels active. In Simple Croup—Give dose according to age. If improvement is not immediate, call physician at once. In all cases, take the dose slowly; let it trickle down the throat to obtain best results. * * * Successfully used for generations in the treatment of simple coughs and throat irritations incident to colds, etc. Directions * * * Dose for an adult: Half teaspoonful three times a day and on going to bed. Dose for children: Ten years old—20 drops. Five years old—15 drops. One year old—5 drops. Note:—Some individual cases require more, others less. The quantity for each can best be learned by actual use. * * * In General The first stages of a cough yield so much more readily to treatment that one should take Kohler One Night Cough Syrup just as soon as a cough is noticed. Neglect and delay may cause dangerous results. In Common cases, take the usual dose prescribed above. Where the cough has become

more severe, take double the regular dose every two hours. Let Kohler One Night Cough Syrup Trickle down the throat as slowly as possible. Where the cough is constant and harassing, repeat the regular dose at short intervals until the phlegm is loosened and thrown off. Keep the body warm and in as even a temperature as possible. Keep the feet warm and dry. Keep the bowels open by taking a gentle purgative."

On September 7, 1934, no claimant having appeared, judgment was entered finding that the statements in the labeling, regarding the curative or therapeutic effects of the article, were false and fraudulent, and ordering that the products be condemned and destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24064. Misbranding of Dr. Browns Food Lax. U. S. v. 124 Packages and 59 Packages of Dr. Browns Food Lax. Default decree of condemnation and destruction. (F. & D. no. 33046. Sample nos. 67597–A, 67598–A.)

This case involved a product which was misbranded because of unwarranted curative and therapeutic claims appearing in the labeling, and because it was a drug and was represented to be a food.

On July 6, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 124 small packages and 59 large packages of Dr. Browns Food Lax at Elizabeth, N. J., alleging that the article had been shipped in interstate commerce on or about January 30, 1934, by the Nostane Products Corporation, from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of agar agar and the seeds of several species of plantago.

The article was alleged to be misbranded in that the following statements appearing in the labeling were false and misleading, since the article was not a food: "Food Lax", "Accessory Food", "food laxative", and "is * * * not a medicine." Misbranding was alleged for the further reason that the following statements regarding the curative or therapeutic effects of the article were false and fraudulent: (Carton) " * * * for Bowel Regulation * * *"; (circular) "New Energy and Health * * * for Bowel Regulation * * * Pepless–No Appetite–Dull Headaches It's Nature's Warning of Constipation Correct it Now! * * * rid yourself of Constipation—and stay rid of it. You think you're not the least bit affected—you say that you're 'regular' as can be—but physicians will tell you that it is only too easy to deceive yourself in this respect and stay doped with poisons. Many of our users, who have suffered from habitual constipation and the many other ailments resulting from this condition, were simply amazed in the improvement of their health and increased vitality as a result of taking Food Lax regularly. * * * The specially processed Dextrine supplies a favorable media for the return of essential germ life in the intestines. This favorable germ life helps to combat the inroads of Constipation and its allied conditions. * * * thus your whole intestinal tract is 'toned up'—purified. Poison forming matter no longer remains, to stagnate and contaminate our blood, and when this occurs, digestion improves. 'Pep' returns. * * * It is a necessary * * * bowel regulator * * * Acts as a food * * * The foremost physicians of the world suspect that fully 75 per cent of all ailments are caused by intestinal poisons, producing auto-intoxication. * * * More than 95 per cent of people suffer from auto-intoxication caused by delayed stool conditions. Consider the following list of ailments that are usually due to auto-intoxication or allied with constipation: Indigestion, inactive liver, gas in bowels or stomach, pains after eating, backaches, rheumatism, catarrh, headaches, dropsy, heartburn, heart palpitation, confusion or dullness of the mind, sexual weakness, fistula, hemorhroids, feverish sensations, weak joints, obesity, thinness, deafness due to catarrh, gall stones, colitis, boils, pimples and other skin disorders, eyestrain, irritability, neuralgia, nervousness, neurasthenia, insomnia, prostatitis, pruritis, and general debility. From the foregoing statements of facts the dangers of unrelieved Constipation can readily be seen. If you suffer from any of the conditions stated above and which can be attributed to Constipation or a sluggish bowel start aright by taking Dr. Browns Food Lax conscientiously."

On November 5, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24065. Adulteration and misbranding of spirit of camphor, liquefied carbolic acid, and cascara aromatic. U. S. v. 69 Bottles of Spirit Camphor, et al. Default decree of condemnation and destruction. (F. & D. nos. 33073 to 33077, incl. Sample nos. 66468–A to 66472–A, incl.)

This case involved shipments of 2 lots of spirit of camphor, 2 lots of liquefied carbolic acid, and 1 lot of cascara aromatic, all of which were labeled "U. S. P." One of the shipments of spirit of camphor was found to have a specific gravity in excess of the maximum provided in the United States Pharmacopoeia. Both lots of liquefied carbolic acid were found to yield, upon evaporation, excessive residue. The cascara aromatic contained less alcohol than provided in the pharmacopoeia. Both lots of the spirit of camphor and liquefied carbolic acid were short volume. The labeling of all products contained unwarranted curative and therapeutic claims.

On July 23, 1934, the United States attorney for the Western District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 125 bottles of spirit of camphor, 112 bottles of liquefied carbolic acid, and 126 bottles of cascara aromatic at Shreveport, La., alleging that the articles had been shipped in interstate commerce in part on or about May 13, 1933, and in part on or about February 16, 1934, by the El-Dee Manufacturing Co., from Alton, Ill., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The articles were labeled in part: "Spirit Camphor U. S. P."; "Carbolic Acid Liquefied U. S. P."; "Standardized Cascara Aromatic U. S. P. Alcohol 17%." The smaller sizes of spirit of camphor and liquefied carbolic acid were labeled "½ Oz." or "½ Fld. Oz.", the larger sizes being labeled "1 Fld. Oz."

Examination of a sample of the spirit of camphor showed the specific gravity of one lot to be 0.828 at 25° C; the pharmacopoeia specifies that the specific gravity of spirit of camphor is from 0.824 to 0.826 at 25°. Samples taken from each of the shipments of the liquefied carbolic acid yielded, upon evaporation, a residue of 0.20 and 0.08 percent, respectively; the pharmacopoeia specifies that liquefied carbolic acid yields, upon evaporation, not over 0.05 percent of residue. The cascara aromatic contained 11 percent of alcohol; the pharmacopoeia provides that aromatic cascara sagrada fluid extract contain 17 to 19 percent of alcohol.

The libel alleged that the articles were adulterated in that they were sold under names recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the tests laid down therein, and their own standard was not stated on the labels.

Misbranding was alleged for the reason that the statements on the bottle label, "½ Oz.", and on the carton label, "½ Fld. Oz. Persons * * * should demand their products in sanitary sealed packages free from * * * short weight and measure", were false and misleading since the packages did not contain either one half ounce or one half fluid ounce. This misbranding charge was only applicable to portions of the spirit of camphor and carbolic acid. The remaining lots of the spirit of camphor and carbolic acid were labeled "1 Fld. Oz." and were also found to be short volume. Misbranding was alleged with respect to all products for the further reason that the labeling bore statements regarding their curative and therapeutic effects, which were false and fraudulent. The curative and therapeutic claims on the labels which this Department deemed unwarranted were as follows: (Spirit of camphor, small size) "Externally the application of Spirit of Camphor has been used to relieve * * * lumbago, bronchitis, catarrh, sore throat, rheumatic affections, * * * and like injuries. * * * Internally it is much used in colic and summer diarrhoea especially in children. It is also used internally to relieve nervousness and hysterical conditions"; (spirit of camphor, large size) "* * * is an excellent application for the relief of * * * lumbago, * * * and rheumatic affections. Internally it is used to relieve nervousness and hysterical conditions, and colic and summer diarrhoea especially in children"; (carbolic acid, small size)"* * * in all forms of local infections. * * * painful ulcerations, carbuncles, boils and various local inflammations, infected wounds and glandular swellings. * * * for the prevention of infection"; (carbolic acid, large size) "Externally in a 2 to 4 percent solution Carbolic Acid has been largely used * * * in all forms of local infections, * * * painful ulcerations, carbuncles, boils and various local inflammations, infected wounds and glandular swellings. It is also much used * * * for the prevention of infection"; (cascara aromatic, carton) "* * * for use

in habitual constipation. In many cases of habitual constipation the continued use seems to produce a permanent beneficial effect upon the intestinal tract."

On October 15, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the products be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24066. Adulteration of sweet spirits of nitre. U. S. v. 144 Bottles of Sweet Spirits of Nitre. Default decree of condemnation and destruction. (F. & D. no. 33101. Sample no. 68543–A.)

This case involved an interstate shipment of sweet spirits of nitre, a product recognized in the United States Pharmacopoeia, which fell below the pharmacopoeial requirements.

On July 19, 1934, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 144 bottles of sweet spirits of nitre at Dothan, Ala., alleging that the article had been shipped in interstate commerce on or about March 23, 1934, by the Cumberland Manufacturing Co., from Nashville, Tenn., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sweet Spirits Nitre Ethyl Nitrite 4½ Percent."

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down therein, since it contained less than 3.5 percent of ethyl nitrite, the minimum permitted by the pharmacopoeia.

On December 6, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24067. Misbranding of Novak's Female Drops, Novak's Oil, and Komet. U. S. v. 10 Bottles of Novak's Female Drops, et al. Default decrees of condemnation and destruction. (F. & D. nos. 33156, 33157, 33158. Sample nos. 74582–A, 74583–A, 74584–A.)

These cases involved various drug preparations. Examination showed that the product designated Novak's Female Drops contained less alcohol than declared on the label; that the product designated Novak's Oil was not an oil, and that the label of the product, designated "Komet", bore unwarranted curative and therapeutic claims. The labels of the Novak's Female Drops and Novak's Oil also bore curative and therapeutic claims which this Department deemed to be unwarranted by the composition of the articles.

On August 4, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 10 bottles of Novak's Female Drops, 32 bottles of Novak's Oil, and 32 tubes of Komet at Philadelphia, Pa., alleging that the articles had been shipped in interstate commerce, on or about May 24, 1934, by the John Novak Co., from Chicago, Ill., and charging misbranding in violation of the Food and Drugs Act as amended.

Analyses by this Department showed that the Female Drops consisted essentially of extracts of plant drugs including cramp bark, glycerin, alcohol (38 percent), and water, flavored with clove oil; that the oil consisted essentially of alcohol (52 percent), chloroform (5.7 percent), methyl salicylate (5.7 percent), menthol, capsicum oleoresin, ammonia, and water; and that the Komet consisted essentially of volatile oils including camphor, menthol, methyl salicylate, and turpentine oil (19.4 percent), incorporated in a mixture of petrolatum and wax.

The Female Drops were alleged to be misbranded in that the label failed to bear a statement of the quantity or proportion of alcohol contained in the article since the statement on the bottle label, "Alcohol 50%", and the statement on the carton, "Alcohol 55 to 65 percent", were incorrect. The Novak's Oil was alleged to be misbranded in that the designation "Novak's Oil" was false and misleading since the article was not an oil. The Komet was alleged to be misbranded in that the labeling contained statements, regarding the curative or therapeutic effects of the article, which were false and fraudulent.

In his report, the Secretary of Agriculture advised the United States attorney that the labels of all three products contained statements regarding their curative and therapeutic effects, that the articles contained no medicinal

agencies capable of producing such effects, and requested that the libels include charges that the statements were false and fraudulent. These statements were as follows: (Novak's Female Drops, bottle label) "* * * Female * * *"; (carton) "* * * Female * * * An excellent preparation for irregular, painful or delayed menstruation. Recommended for both single and married women * * * [in general, on carton, similar statements appear in foreign language]"; (Novak's Oil, bottle label) "A Whip for Pain A preparation for Rheumatism, Pain in the Back, Lameness, Swelling, Stiff Joints, Stiff Neck, * * * Toothache and all ordinary pains"; (carton) "A Whip for Pain * * * For Rheumatism, Pain in the Back, Lameness, Swellings, Stiff Neck, Stiff Joints, * * * Toothache, and all ordinary pains. * * * For Rheumatism, Pain in the Back. Lameness, Swellings, Stiff Joints, Stiff Neck * * * Toothache and all ordinary bodily pains * * * [in general, on label and carton, similar statements in foreign languages]"; (Komet, circular) "A Whip for Pain For Rheumatic Pains * * * For Stiff Neck For Backache For Swellings * * * For Every ache and pain * * * watch it dig into the ache or pain and pull the trouble out. * * * Use Komet and enjoy perfect health. * * * For Rheumatism * * * Sciatica Lumbago * * * Stiff Neck * * * [in general, similar statements appear in foreign language]."

On August 29, 1934, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24068. Adulteration and misbranding of tincture of belladonna. U. S. v. Fifteen 1-Pint Bottles of Tincture Belladonna USP. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 33239. Sample no. 4271–B.)

This case involved an interstate shipment of tincture of belladonna, which contained alkaloids of belladonna in excess of the maximum provided in the United States Pharmacopoeia.

On August 8, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 pint bottles of tincture of belladonna at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about July 16, 1934, by the Abbott Laboratories, from Chicago, Ill., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Tincture Belladonna USP * * * standardized to contain 0.027 to 0.033 grams total alkaloids in hundred CC."

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength as determined by the test laid down in the said pharmacopoeia and its own standard was not correctly stated on the label.

Misbranding was alleged for the reason that the statements on the label, "Tincture Belladonna USP * * * standardized to contain 0.027 to 0.033 grams total alkaloids in hundred CC", were false and misleading.

On November 23, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24069. Misbranding of Dietene. U. S. v. 170 Jars of Dietene. Default decree of destruction. (F. & D. no. 33246. Sample no. 3387–B.)

This case involved an interstate shipment of Dietene which was misbranded because of unwarranted curative and therapeutic claims appearing in the labeling, and because of false and misleading claims relating to its effectiveness as an aid in reducing.

On August 20, 1934, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 170 jars of Dietene at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about July 5 and July 16, 1934, by the Dietary Foods Co., Inc., Minneapolis, Minn., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of dried milk, malt extract, sugar, wheat germ, wheat bran, cacao powder, and salt, flavored with vanilla.

The article was alleged to be misbranded in that the following statements, appearing in the labeling and indicating that the article would effect reduction of weight, were false and misleading, since it would not produce such an effect: (Front label, on some of the packages) "Dietene reduces correctly"; (back label, on all of the packages) "Dietene reduces over-weight promptly and surely because by it the day's Calories are cut about one-third. * * * Dietene is a reducing diet of pure foods in concentrated form which has a number of distinct advantages over bulk food diets. * * * It embodies all the reducing diet principles used by the nutritional experts in the professional field. * * * The full regular main meal provides necessary bulk and the essential carbohydrates for proper burning of the fats which the body is giving off during the relatively rapid reducing which Dietene accomplishes. The Dietene-diet is economical, as it only costs one-third or one-half of regular meals it replaces. It positively contains no * * * salts * * * Directions for use Whip, beat, or shake in a covered jar 4 big heaping teaspoonsful of Dietene with an ordinary glass of water. This constitutes a complete reducing-diet meal. Replace usual breakfast and lunch with Dietene—or lunch only if slow reduction of weight is desired"; (circular accompanying all packages) "Dietene Reduces Correctly * * * What Is Dietene? Dietene is a protective low-calorie food, formulized by specialists in nutrition, for healthful and simplified weight reduction. * * * Dietene, of course, meets all state and federal pure-food requirements. * * * Dietene is accurately proportioned to insure nutritional balance throughout the Dietene reducing program. * * * The Dietene Reducing Program * * * Sure * * * Nothing could be more * * * sure, and a Dietene meal * * * constitutes a complete substitute for all other food. * * * Does It Appeal To Those Who Are Over-Weight? Decidedly so. Dietene meals can be taken * * * far removed from food centers with * * * fattening dishes. If you will replace your breakfast and lunch with Dietene, you will take off 2½ to 5 pounds a week, in proportion to your bodily activity and your adherence to the Dietene reducing schedule, this loss of weight being deemed the proper amount by nutritionists—2½ to 3 pounds a week for regular, extended weight reduction, and 5 pounds a week for initial and rapid reduction. Rapid reduction over a long period is not recommended. What Is The Dietene Reducing Program? A Dietene breakfast and lunch, together with a full, regulation dinner in the evening. This will provide 1,000 to 1,200 calories a day, the correct number for reducing a moderately active person. Necessarily, a very active individual, who might require about 3,400 calories, may take not only more Dietene during the day, but more food at dinner time. Additional servings of Dietene will not materially retard weight reduction * * * Does Dietene Satisfy Hunger and Why? Yes, since it has been specifically prepared and assembled to provide relatively slow digestion, thus largely eliminating the gnawing, hungry feeling so often present in reducing routines. Quite as important is the fact that after a few days' use of Dietene, due to its concentrated form, the stomach will have been appreciably reduced in size. This will disperse the desire for the larger amounts of food to which the stomach has been accustomed. * * * [Table headed "Weights According To Height."] Is There Any Magic Road To Slimness? Science prescribes but one way. No magic is involved. The right method is through a sound reducing diet * * * Are There Any Food Hints That Make Reducing Easier? Yes, here are a few good ones, and they are rules of health as well: * * * Replace usual breakfast and lunch with Dietene—or lunch only if slow reduction of weight is desired. If you are more than moderately active, help yourself to additional servings of Dietene between meals. Dietene is nothing more or less than a scientifically assembled healthful pure food in concentrated form properly proportioned to provide the nutrients needed in a reducing diet. * * * By dieting on Dietene as directed, there will be a sufficient shortage of fat-forming food elements so that the weight can be successfully and comfortably reduced * * * As Dietene adds less than 300 calories per day to those supplied by the main, regular meal advised and as it is accepted that an average man of sedentary habits or a moderately active woman requires about 2,400 calories per day to maintain weight, the reason for loss of weight is readily apparent. Its high percentage of the most valuable and essential food elements makes it unusually desirable as a safe reducing-diet food. * * * Dietene, which is concentrated, contains three to four times the vitamins and minerals found in regular reducing bulk-foods."

Misbranding was alleged for the further reason that the following statements regarding the curative or therapeutic effects of the article were false and fraudulent: (Front Label, on some of the packages) "Protects Health"; (back label, on all of the packages) "Its superior proteins (derived from dairy and vegetable sources), mineral salts and vitamins, fully protects health while reducing"; (circular, on all packages) "Protects Health * * * A safe low-calorie diet must also provide the full quota of vitamins, since they, with the minerals, are the food essentials which regulate and preserve health. The proteins found in Dietene are largely from dairy and vegetable sources—an important factor—since they are the alkaline-reaction type which guard against the dangerous acidosis so commonly resulting from improper, haphazard, or fad reducing diets. * * * Why So Much Emphasis on Normal Weight And Is There An Accepted Standard? Where there is overweight, far more than a slim and sparkling figure is at stake, important and advantageous as that is. Life Insurance Associations, after prolonged and well qualified research, declare with definite finality, that the people who live the longest, stay the youngest, get the most out of life, and look the best, are they who as a group, more or less closely maintain the weight which for them was normal at the age of thirty. * * * Authorities on metabolism tell us that fats cannot burn properly in the absence of the right amounts of starches and sugars. Without them a dangerous acidosis may result. The Dietene reducing program provides sufficient starches and sugars, by including a regular evening meal with servings of fruits, which contain natural sugars, and a variety of starches from the usual sources How Is Overweight Acquired? * * * In exceptional cases, over-weight results from functional disorders—health disturbances of some kind—such as gland irregularity, and all such cases, of course, demand medical attention and a reducing program approved by a trust-worthy physician, who will appreciate the opportunity of appraising the Dietene literature and the Dietene itself. If you are overweight, but otherwise enjoy good health, Dietene offers a simple, healthful, and especially practical way in which to reduce. * * * Dietene is particularly high in the protective * * * proteins."

On November 1, 1934, no claimant having appeared, judgment was entered finding the product misbranded and ordering that it be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24070. Misbranding of Saratoga Ointment. U. S. v. 2,791 Boxes of Saratoga Ointment. Decree of condemnation entered with provision for release under bond for relabeling. (F. & D. no. 33250. Sample no. 4304–B.)

This case involved a drug preparation which was misbranded because of unwarranted curative, therapeutic, and antiseptic claims appearing in the labeling.

On August 17, 1934, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 2,791 boxes of Saratoga Ointment at Peoria, Ill., alleging that the article had been shipped in interstate commerce on or about July 7, 1934, by the G. F. Harvey Co., from Saratoga Springs, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of zinc oxide, boric acid, and a small proportion of eucalyptol, incorporated in petrolatum. Bacteriological examination showed that the article was devoid of antiseptic properties.

The article was alleged to be misbranded in that the following statement regarding its curative or therapeutic effects, appearing in the labeling, were false and fraudulent: (Tin box) "A Healing * * * Ointment"; (circular) "An ideal dressing of exceptional merit in the treatment of * * * Eczema, Hemorrhoids, * * * etc. Mothers have found this ointment safe and eminently satisfactory in baby rash and other skin ailments. The analgesic properties of Saratoga Ointment tend to afford quick and grateful relief from painful open lesions * * * there is also an astringent and detergent action that is of benefit in treating ulcers with a free discharge. * * * Applied immediately; quick clean healing begins and almost invariably no scar is left. * * * prevents infection and wards off scar. * * * valuable in * * * Abscesses, Bedsores, * * * aching * * * feet, Eczema, Rashes, Pimples, Hemorrhoids, * * * Nasal Catarrh, * * * inflamed nostrils * * * and Ulcers."

Misbranding was alleged for the further reason that the statement "The necessary antisepsis is provided," appearing in the circular, was false and misleading since the article would not provide antisepsis.

On November 2, 1934, the G. F. Harvey Co. having appeared as claimant, judgment of condemnation was entered and it was ordered that the product might be released provided the claimant filed a bond within 10 days, conditioned that it be properly relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

24071. Misbranding of Red Raven Splits. U. S. v. 306 Bottles of Red Raven Splits. Consent decree of condemnation and destruction. (F. & D. no. 33252. Sample no. 74433-A.)

This case involved a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling.

On August 14, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 306 bottles of Red Raven Splits at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about January 18, 1934, by the Red Raven Corporation, from Red Raven, Pa., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of an artificially carbonated solution of sodium phosphate.

The article was alleged to be misbranded in that the following statements on the bottle label: "For chronic constipation, sluggish liver, headache and biliousness, laxative in early stages of influenza", were statements regarding the curative or therapeutic effects of the article and were false and fraudulent.

On January 2, 1935, the Red Raven Corporation, the sole intervenor, having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24072. Adulteration and misbranding of Pyrol. U. S. v. 102 Dozen Tubes of Pyrol. Default decree of condemnation and destruction. (F. & D. no. 33276. Sample nos. 843-B, 845-B.)

This case involved interstate shipments of Pyrol, the labeling of which contained unwarranted curative, therapeutic, and antiseptic claims.

On August 20, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 102 dozen tubes of Pyrol at Seattle, Wash., alleging that the article had been shipped in interstate commerce in various shipments on or about July 29, 1933, March 13, April 11, and May 11, 1934, by the Kip Corporation, Ltd., from Los Angeles, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of petroleum and zinc oxide with small amounts of phenol, salicylic acid, and essential oils including methyl salicylate. Bacteriological examination showed that it was not antiseptic.

The article was alleged to be adulterated in that its strength fell below the professed standard of quality under which it was sold, namely, "Antiseptic."

Misbranding was alleged for the reason that the following statements in the labeling were false and misleading: (Carton and tubes) "Pyrol is Composed of * * * Antiseptic * * * Oils"; (circulars) "Pyrol is * * * Antiseptic * * * Pyrol Contains * * * Antiseptic Oils." Misbranding was alleged for the further reason that the following statements regarding the curative or therapeutic effects of the article, appearing in the labeling, were false and fraudulent: (Some tubes) "Heals severest burns without scar * * * eruptions are relieved and respond to Pyrol"; (some cartons) "Heals severest burns without scar * * * eruptions are relieved and respond to Pyrol"; (other tubes and cartons) "Boils Piles Ulcers * * * heals severest burns without scar * * * eruptions are relieved and respond to Pyrol"; (all circulars) "It prevents infection. No need to be incapacitated by burns or scalds. Pyrol * * * hastens healing—and almost invariably prevents scars. Eczema * * * Even in severe cases several applications will make the skin clear and free from this disease. Sore Feet * * * Sores * * * Pimples, boils * * * respond immediately to Pyrol treatment. After steril-

izing the affected area apply Pyrol freely and in severe cases keep bandaged. Dandruff * * * repeated several times per week will soon cure the worst cases of dandruff."

On February 20, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24073. Misbranding of Sengarian Ointment. U. S. v. 107 Packages of Sengarian Ointment. Default decree of condemnation and destruction. (F. & D. no. 33288. Sample no. 10464–B.)

This case involved a drug preparation which was misbranded because of unwarranted curative, therapeutic, and antiseptic claims in the labeling. The labeling was also objectionable since it bore a statement that the product could be used on an infant with perfect safety, whereas it contained an ingredient which might be harmful when so used, and since it conveyed the impression that the labeling of the product had been approved by this Department, whereas it had not; and since it did not have the antiseptic properties claimed.

On or about August 28, 1934, the United States attorney for the District of Delaware, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 107 packages of Sengarian Ointment at Wilmington, Del., alleging that the article had been shipped in interstate commerce on or about June 9, 1934, by Aschenbach & Miller, Inc., from Philadelphia, Pa., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of a lead soap, rosin, and camphor. Bacteriological examination showed that it was not antiseptic.

The article was alleged to be misbranded in that the statement on the carton, "Sengarian Ointment is antiseptic", and the statement in the circular, "It may be used on the most tender infant with perfect safety", were false and misleading. Misbranding was alleged for the further reason that the following statements in the labeling were misleading: (Carton) "Formerly Hungarian"; (circular) "(Formerly Called Hungarian Ointment). In compliance with the requirements of the Federal Food and Drugs Act we have changed the title of Hungarian Preparations to Sengarian. The authorities have decided that the name 'Hungarian' may not be used, from the fact that the Preparations are not prepared in Hungary. All our preparations will be found to be the same as heretofore in every particular, the only change being in the title of the articles so long and well known as 'Hungarian.'" Misbranding was alleged for the further reason that the following statements on the carton and in the circular, were statements regarding the curative or therapeutic effects of the article and were false and fraudulent: (Carton) "Much relief is experienced by its use for * * * Bunions. * * * the treatment of inward pains, Lumbago, Catarrh, Gathered Breast, Sore Nipples, * * * Felons, Flesh Wounds, Deep-Seated Sores, Carbuncles, * * * Cuts, Boils, Scrofulous Sores, Eczema, Salt Rheum, Tetter, * * * Piles, * * * etc., * * * for * * * Eczema and all skin eruptions"; (circular) "For * * * Healing and Strengthening * * * Its peculiar adaptedness for the treatment of inward pains, as well as open sores, renders it a most valuable preparation. * * * In Rheumatism, Synovitis, * * * Sciatica, Lumbago, Contractions and Pain in Chest, Throat and Back; in Cholera Infantum, Cholera Morbus, Inflammation of Bowels and Stomach, etc., it acts as an agent for drawing out the inward soreness and inflammation, and imports new strength and vigor to the parts affected without producing any outward sores whatever. * * * It will adhere to the body without a bandage as soon as the Ointment is sufficiently absorbed to reach the seat of the disease. For all kinds of open sores, whether they are fresh wounds or old sores, it acts efficiently by drawing to the surface poisonous fluid or matter, and as soon as that is discharged, it heals the wounds and strengthens the tissues, leaving the flesh in a healthy condition. * * * For treatment of Rheumatism, Synovitis, * * * Catarrh, Lumbago, Sciatica, Erysipelas, Cholera, Inflammation of the Bowels, Stomach or any Inward Pains, which do not discharge it is not needed to change the plaster every day, * * * In many cases of inward pain the plaster may be left in place as long as it adheres to the skin. For small sores which do not discharge much, it is not necessary to change the plaster every day * * * For Felons, Gathered Breasts, Ulcers, Carbuncles, Abscesses and any Deep-Seated Sores the Salve must be changed twice a day. It will be found very efficient to keep a warm poultice over the plaster until the pain diminishes. * * * The surface of the

plaster may be covered with a thin coating of olive oil or lard in case of sores * * * For Cholera Infantum, Cholera Morbus, Inflammation of the Bowels and Stomach, Chronic Diarrhoea, etc., spread a plaster large enough to cover the stomach and bowels, * * * Cramps and griping pain will be relieved, the inflammation reduced and the stomach and bowels restored to healthy action."

On December 7, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

N. L. Wilson, *Acting Secretary of Agriculture.*

24074. Misbranding of Coridene. U. S. v. 41 Bottles of Coridene. Default decree of forfeiture and destruction. (F. & D. no. 33294. Sample no. 68375–A.)

This case involved a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling. The article was further misbranded, since it was labeled to convey the misleading impression that it contained in highly concentrated form the substance or substances contained in dried buttermilk.

On August 23, 1934, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 41 bottles of Coridene at Boston, Mass., alleging that the article had been shipped on or about April 10, 1934, by Gland-O-Lac Co., from Omaha, Nebr., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of hydrochloric acid, lactic acid, volatile oils including cineol, a fish-liver oil, and water.

The article was alleged to be misbranded in that the statement on the bottle label, "Coridene is Equivalent in Acid Reaction to Eighty Times Its Weight in Dried Buttermilk", was false and misleading. Misbranding was alleged for the further reason that the following statements in a leaflet shipped with the article were statements regarding its curative or therapeutic effects and were false and fraudulent: "Coccidiosis Coccidiosis affects fowls of all ages, also baby chicks. Symptoms and post mortem lesions; bloody droppings may be present, or yellowish cheesy-like plugs may be found in the blind intestines. Young baby chicks may show only a lemon yellow soft dropping. Coridene is eighty-four times stronger in acid reaction than dry buttermilk—making it the cheapest and most efficient source of acids you can buy, besides its tonic and healing qualities. Treatment: Give Coridene according to directions on the bottle. Coridene is made especially for coccidiosis; its action in this disease is quick and positive which is so necessary to stop the rapid death loss in acute cases. You will find this preparation will give far better and quicker results than you expected. Coridene should be used in all bowel troubles in baby chicks because any of the bowel troubles will yield to a good coccidiosis remedy, but coccidiosis will not yield to a treatment for simple diarrhea. Coccidiosis affects baby chicks more than most people realize,—therefore Coridene should be used in all bowel disorders. It will stop the bowel troubles and should your chicks have coccidiosis you are safe. * * * For bowel troubles, which includes Coccidiosis infections of other natures, and diarrhea caused from chilling or overheating—there is nothing better than Coridene. Coridene is our Coccidiosis preparation and the ordinary bowel troubles will yield to this treatment. As it is difficult at times to tell the difference between Cocciodiosis and diarrhea in baby chicks, Coridene should always be used; therefore, there will be no mistake in the treatment."

On November 19, 1934, no claimant having appeared, judgment of forfeiture was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24075. Misbranding of celery powder. U. S. v. 56 Boxes of Celery Powders. Default decree of condemnation and destruction. (F. & D. no. 33296. Sample no. 2714–B.)

This case involved a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling. The article was also misbranded because the declaration of acetanilid was incorrect and inconspicuously placed and because it was labeled to convey the impression that it consisted of ingredients derived from celery; whereas its principal physiological effects were derived from other ingredients.

On August 28, 1934, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 56 boxes of celery powder at Sandy Lake, Pa., alleging that the article had been shipped in interstate commerce on or about May 29, 1934, by the Celery Medical Co., either from Findlay, Ohio, or Fremont, Ohio, and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article was composed essentially of acetanilid (3.2 grains per powder), caffeine (0.5 grain per powder), sodium bicarbonate, and a small proportion of celery seed.

The article was alleged to be misbranded in that the statements on the label, "This preparation conforms to State and National Laws", and "Celery Powders", were false and misleading. Misbranding was alleged for the further reason that the package failed to bear on the label a statement of the quantity or proportion of acetanilid contained in the article, since the declaration on the label, "Each powder contains 3½ grains Po. Acetanilid", was incorrect and was inconspicuously placed on a side panel of the carton. Misbranding was alleged for the further reason that the following statements regarding its curative or therapeutic effects were false and fraudulent: "Nervous Bilious or Sick Headache Nervousness * * * La Grippe Big Head A Great Bracer * * * Directions—Place the powder dry on the tongue and take a swallow of water; repeat in 30 minutes if not entirely relieved. If possible sit or lie down quietly for half an hour. In extreme cases three doses may be taken. For Sun Pain take as above, followed with one powder morning and evening for three or four days, to prevent return. For children under 14 years, half of powder at dose."

On November 16, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24076. Adulteration and misbranding of Anti-Pyrexol. U. S. v. 85 Boxes, et al., of Anti-Pyrexol. Default decree of condemnation and destruction. (F. & D. no. 33308. Sample no. 10827–B.)

This case involved a drug preparation, the labeling of which contained unwarranted curative, therapeutic, and antiseptic claims.

On September 10, 1934, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of eighty-five 15-ounce boxes, five 5-pound boxes, and one 10-pound box of Anti-Pyrexol at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about May 17, July 6, and July 16, 1934, by the Kip Corporation, from Los Angeles, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of zinc oxide with small amounts of phenol and essential oils including methyl salicylate in an ointment base. Bacteriological examination showed that it was not antiseptic.

The article was alleged to be adulterated in that its strength fell below the professed standard of quality under which it was sold, namely, "Antiseptic." Misbranding was alleged for the reason that the following statements appearing on the container were false and misleading: (Lithographed on can) "Antiseptic"; (sticker on bottom of can) "This Lot * * * has been Tested Bacteriologically according to Department of Agriculture, Drug & Food Control, methods of Testing antiseptics." Misbranding was alleged for the further reason that the statement appearing on the can label, "Antiseptic Treatment", was a statement regarding the curative or therapeutic effects of the article and was false and fraudulent.

On December 17, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24077. Misbranding of Tetterine. U. S. v. 286 Packages of Tetterine. Default decree of condemnation and destruction. (F. & D. no. 33309. Sample nos. 6267–B, 6268–B.)

This case involved a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling.

On or about September 5, 1934, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 286 packages of Tetterine at Jacksonville, Fla., alleging that the article had been shipped in

interstate commerce on or about July 2 and July 14, 1934, by the Shuptrine Co., from Savannah, Ga., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of salicylic acid (13.6 percent), and boric acid (12.2 percent), incorporated in petrolatum colored with fuchsin and scented with orange-flower oil.

The article was alleged to be misbranded in that the display carton, retail carton, and an accompanying circular contained false and fraudulent representations regarding its effectiveness in the treatment of skin troubles such as eczema, tetter, rash, pimples, parasitic skin diseases, ground itch, barber's itch, parasitic itching of eruptions of the scalp, scald head, dandruff, foot itch, scalp diseases, and as a treatment of rash, tetter, eczema, or similar skin eruptions of babies; its effectiveness to destroy every disease germ that it comes in contact with; to bring soothing relief from soreness and itching of pimples and blotches; its effectiveness for itching piles, skin disease on dogs, horses, cats, and other animals; and sorehead on chickens; for sore hands; for aching, sore feet; and relieving soreness and inflammation of bunions.

On November 3, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24078. Adulteration and misbranding of milk of magnesia. U. S. v. 132 Bottles and 66 Bottles of Milk of Magnesia. Default decree of condemnation and destruction. (F. & D. no. 33387. Sample nos. 6442-B, 6443-B.)

This case involved a product sold as milk of magnesia, a name recognized in the United States Pharmacopoeia, and labeled as complying with the pharmacopoeial standard, which was found to contain a smaller proportion of magnesium hydroxide than the pharmacopoeia product.

On September 5, 1934, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 198 bottles of milk of magnesia at Scranton, Pa., alleging that the article had been shipped in interstate commerce, on or about July 16, 1934, by the Standard Drug Co., from Newark, N. J., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength as determined by the test laid down in the pharmacopoeia, in that it contained less than 7 percent of magnesium hydroxide; whereas the pharmacopoeia provides that milk of magnesia shall contain not less than 7 percent of magnesium hydroxide.

Misbranding was alleged for the reason that the statement on the label, "Milk of Magnesia * * * U. S. P.", indicating that the article conformed to the specifications of the United States Pharmacopoeia for milk of magnesia, was false and misleading.

On October 1, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24079. Misbranding of Dickinson's Enteritis Powder for Poultry. U. S. v. 10 Packages of Dickinson's Enteritis Powder for Poultry. Default decree of condemnation and destruction. (F. & D. no. 33390. Sample no. 65464-A.)

This case involved a drug preparation, the labels of which contained unwarranted curative and therapeutic claims.

On September 4, 1934, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of ten 1-pound packages of Dickinson's Enteritis Powder for Poultry at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about April 4, 1934, by the Albert Dickinson Co., from Chicago, Ill., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of zinc, calcium, and sodium phenolsulphonates, and catechu.

The article was alleged to be misbranded in that the following statements on the carton, regarding its curative or therapeutic effects, were false and

fraudulent: "Enteritis Powder * * * for the treatment of intestinal inflammation in chickens * * * in severe cases two to three successive treatments."

On October 11, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24080. Misbranding of Dr. Michael's C. P. Tablets. U. S. v. 72 Large Packages and 70 Small Packages of Dr. Michael's C. P. Tablets. Default decree of condemnation and destruction. (F. & D. no. 33399. Sample no. 216–B.)

This case involved a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling, and which was further misbranded because the labeling stated that it did not affect the heart, analysis having shown that it contained ingredients which might affect the heart. The labels of the small packages failed to declare the acetanilid present in the article, since the statement was made inconspicuously on the side panel.

On September 8, 1934, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 72 large packages and 70 small packages of Dr. Michael's C. P. Tablets at Denver, Colo., consigned by the C. P. Co., from Frankfort, Ind., and alleging that the article had been shipped in interstate commerce on or about March 28, 1934, from the State of Indiana into the State of Colorado, and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted of tablets containing acetanilid (2.8 grains per tablet), caffeine (0.3 grain per tablet), sodium bicarbonate, and celery seed.

The article was alleged to be misbranded in that the statement on the label "Does Not Affect the Heart" was false and misleading. Misbranding of the product in the small packages was alleged for the further reason that the label failed to bear a statement of the quantity or proportion of acetanilid contained in the article, since the declaration made appeared inconspicuously on the side panel. Misbranding of the product in both sized packages was alleged for the further reason that the following statements regarding its curative and therapeutic effects were false and fraudulent: (Carton, large size) "Rheumatic Fever Pains * * * A Quick and Efficient Emergency Remedy for the relief of Pain, Aches and Painful Menstruation. * * * Directions: Take one tablet. If not relieved in twenty minutes take another tablet, repeating the dose every four to six hours if necessary"; (carton, small size) "Rheumatic Fever Pains * * * quiets the Nerves, tones the Stomach, increases Digestion. For the Quick Relief of Pain, Fever * * * Rheumatism, and Menstrual Cramps. * * * For Permanent Relief take 1 tablet before each meal"; (display cartons) "Increases Digestion, Tones the Stomach, Quiets the Nerves, * * * Rheumatism, Lumbago * * * Fever, Painful Menstruation, LaGrippe and All General Aches and Pains."

On November 9, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24081. Misbranding of Hemo-Liver. U. S. v. 34 Bottles and 191 Bottles of Hemo-Liver. Default decrees of destruction. (F. & D. nos. 33426, 33683. Sample nos. 64749–A, 14817–B.)

These cases involved a product, the labeling of which contained unwarranted curative and therapeutic claims.

On September 12, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 34 bottles of Hemo-Liver at Chicago, Ill. On October 15, 1934, a libel was filed against 191 bottles of Hemo-Liver at Pittsburgh, Pa. The libel filed in the Western District of Pennsylvania charged that 191 bottles of Hemo-Liver had been shipped in interstate commerce on or about January 16 and February 19, 1930, by the Hemo-liver Products Co., from Hoboken, N. J., to the Sun Drug Co., Pittsburgh, Pa. The libel filed in the Northern District of Illinois charged that 34 bottles of Hemo-Liver had been shipped in interstate commerce on or about June 15, 1934, by the Sun Drug Co., from Pittsburgh, Pa., to Chicago, Ill. The article was charged in both libels to be misbranded in violation of the Food and Drugs Act as amended.

Analysis of a sampe taken from the lot at Pittsburgh, Pa., showed that it consisted essentially of liver extract, a phosphate, sodium glycerophosphate, alcohol, and water.

The article was alleged to be misbranded in that the following statements and design regarding its curative or therapeutic effects, appearing in the labeling, were false and fraudulent: (Wholesale carton) "The Great Scientific Tonic"; (retail carton of individual bottles) Design indicating the color of the blood containing varying degrees of hemoglobin, which implies that by taking this article the blood will return from 20% to a normal hemoglobin content"; (carton label) "Containing * * * restoratives * * * for Anemia, General Weakness, Lowered Vitality, In Convalescence And In Various Forms Of Debility * * * Anemia is a condition in which the blood is thin. There may be too few red blood cells or the cells may be undernourished and pale. The chart above indicates the difference between the thin watery blood of the anemic and the rich red blood of the normal person and this difference is reflected in the degree of health enjoyed by each. Lack of nerve force, loss of weight and strength, lack of color, nervousness, listlessness, an inclination to tire easily, etc. are among the symptoms. * * * The average sickly, anemic person, however, finds it difficult to adhere to a liver diet for a period sufficiently long to bring about the desired benefit. Hemo-Liver overcomes this objection. It furnishes important blood-regenerating elements of choice beef livers extracted by vacuo, a process which preserves their content. It is pleasant to the taste and may be taken in frequent doses and for indefinitely continued periods of time. Hemo-Liver also contains glycero-phosphates for the nerves and is unusually rich in vitamins"; (bottle label) "* * * containing * * * restoratives * * * for anemia, general weakness, lowered vitality, in convalescence and in various forms of debility. A scientific preparation for the red blood cells. Recommended by the Medical Profession"; (circular) "* * * containing * * * restoratives * * * for anemia, general weakness, lowered vitality, in convalescence and in various forms of debility. Concerning Hemo-Liver * * * Recommended For * * * Hemo-Liver is a scientific nutrient or food for the blood compounded to regenerate and increase the number of red blood cells lessened or destroyed by illness or by forcing the body beyond its strength. * * * and digestants * * * In addition to its potency in increasing hemoglobin, Hemo-Liver is recommended to strengthen the nerves, rebuild energy and act as a health-giving reconstructive tonic in generally weakened, rundown anemic conditions. * * * furnishing vital elements which would best regenerate thin weak blood (anemia) * * * restoring the blood to a rich, healthy condition. * * * using liver freely in the diets of patients suffering from anemia, or rundown conditions both in adults and children with unusual success. * * * In one series of tests conducted, the blood count of the cases before being placed on a liver diet averaged 900,000. Within one month with the use of the liver diet the red blood cells increased to double this quantity. By the end of two months there were over 4,000,000, and at the end of three months the average for this series was 4,500,000 red blood cells—five times more than the 900,000 blood count from which level the feeding started. In this series were a number of anemic patients who had failed to gain satisfactorily in red blood count even after repeated transfusions—but who reacted rapidly to the liver diet. * * * glycerophosphates which are especially recommended for building up nerve force; and digestants to promote digestion. In addition Hemo-Liver is particularly rich in health-promoting, and strength-creating vitamines. What Anemia Is and Some of Its Symptoms Anemia (poverty of the blood) makes itself known in many ways. A large number of people who no longer are able to pursue their normal activity with ease, who feel tired out at the slightest exertion, may be anemic in more or less degree. Underdevelopment, lack of energy and ambition, weakness, loss of appetite or a generally rundown state are oftentimes signs of this condition. * * * Hemo-Liver helps to promote natural regeneration of the blood. * * * Those Who Need Hemo-Liver Weak, Anemic Girls between 13 and 18 find in Hemo-Liver a valuable ally in helping them over the strain of this period into healthy womanhood. Thin-Blooded Nervous Men enervated by the rush and speed of modern life have in Hemo-Liver a splendid means of rebuilding natural forces and steadying the nerves. Exhaustion and Overwork As an immediate restorative for a person temporarily exhausted Hemo-Liver is ideal. Frail Underweight Growing Boys and Girls particularly those who seem to grow faster than their strength are specially benefitted by Hemo-Liver. Just a few days' use will

produce a marked improvement in their appetite and the general tone of their health. Feeble, Ailing Older Folks whose blood has thinned out and is flowing sluggishly thru their veins are invariably in need of some tonic and for them Hemo-Liver is an excellent restorative. Women Suffering from Irregularities or Painful Menstruation frequently get relief from their trouble by taking Hemo-Liver to promote a good normal quality and quantity of blood."

On October 8, 1934, and January 8, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24082. Misbranding of Dee-Em Capsules. U. S. v. 36 Packages of Dee-Em Capsules. Default decree of condemnation and destruction. (F. & D. no. 33427. Sample no. 208–B.)

This case involved a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling, because of failure to declare on the label the presence of acetphenetidin, a derivative of acetanilid, and because it was labeled as being safe and as deriving its active principle from ephedrine sulphate, analysis having shown that it contained ingredients which might be harmful, and that the physiological effects were not solely, nor even predominantly, those of ephedrine sulphate.

On September 14, 1934, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 36 packages of Dee-Em Capsules at Denver, Colo., consigned by the Dee-Em Laboratories, New York, N. Y., alleging that the article had been shipped in interstate commerce on or about July 23, 1934, from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of acetphenetidin (a derivative of acetanilid, 1.1 grains), acetylsalicylic acid (1.8 grains), phenolphthalein (0.26 grain), and ephedrine sulphate (0.05 grain per capsule).

The article was alleged to be misbranded in that the statements on the bottle label, "safe treatment", and in the circular, "safe * * * preparation", were false and misleading since it contained ingredients which might be harmful. Misbranding was alleged for the further reason that the statement in the circular, "Ephedrine * * * In the form of a sulphate is the active principle of Dee-Em Cold Capsules", was false and misleading since the physiological effects of the article were not solely nor even predominantly those of ephedrine sulphate. Misbranding was alleged for the further reason that the label failed to bear a statement of the quantity or proportion of acetphenetidin, a derivative of acetanilid, contained in the article. Misbranding was alleged for the further reason that the following statements regarding the curative or therapeutic effects of the article were false and fraudulent: (Label) "For Respiratory Affections * * * for the relief of * * * Influenza (Grippe), Bronchial Coughs, Asthma, Hay Fever and Nasal disorders. * * * For Ordinary Coughs"; (circular) "Clinically proven remedy for the treatment of Febrile Respiratory Affections * * * Indicated in * * * Influenza (Grippe)–Rhinitis–Asthma–Hay Fever—as well as certain types of * * * Nasal Disorders. * * * Give prompt relief in the treatment of * * * Influenza (Grippe) and the Bronchial Coughs * * * For ordinary coughs."

On November 9, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24083. Misbranding of Fumoil, Egg a Day, and Egg o Day. U. S. v. 5 Cans of Fumoil and 11 Packages of Egg a Day, et al. Default decrees of condemnation and destruction. (F. & D. nos. 33453, 33454. Sample nos. 41472–A, 41473–A.)

These cases involved drug preparations which were misbranded because of unwarranted curative and therapeutic claims appearing in the labeling.

On September 28, 1934, the United States attorney for the District of South Dakota, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 5 cans of Fumoil and 37 packages of Egg a Day and Egg o Day at Mitchell, S. Dak., alleging that the articles had been shipped in interstate commerce on or about February 10, 1934, by the Standard Chemical Manufacturing Co., from Omaha, Nebr., and charging misbranding in violation of the Food and Drugs Act as amended.

Analyses showed that the Fumoil consisted essentially of two preparations, namely, a bottle of volatile oil composed chiefly of eucalyptus oil with a small proportion of sulphuric acid and a package of chlorinated lime; and that the Egg a day (and Egg o Day) consisted essentially of calcium carbonate, sodium thiosulphate, sodium chloride, iron compounds including iron sulphate, a phosphate, and small proportions of plant materials including nux vomica.

The Fumoil was alleged to be misbranded in that the following statements regarding its curative or therapeutic effects, borne on the carton and can labels, were false and fraudulent: (Carton) "Colds, bronchitis, flu and pneumonia"; (can) "Colds, bronchitis, flu and pneumonia in Poultry and Hogs."

Misbranding of the Egg a Day and Egg o Day was alleged for the reason that the cartons and circulars contained false and fraudulent representations regarding its effectiveness to develop strong healthy chickens, to prevent losses in poultry raising, to stimulate the initial cells from which yolks are formed, to supply the necessary elements in proper proportions for maximum egg production, to stimulate and quicken the digestive processes in fowls, making possible a greater degree of assimilation, to stimulate the egg producing gland in a natural manner, to promote thrift, to keep chickens healthy at all times, to stimulate the glands, build bone, make feathers, build up the blood, keep poultry in good condition at all times, to give new health and vitality to hens, to put the egg-making glands in good working condition, to insure health and thrift in fowls, to shorten the moulting period, to stimulate the development or ripening of the yolks, to cause ample secretion of albumen, to stimulate the entire system of digestion, to keep flocks healthy, and as a stimulant which would leave no bad after effects.

On January 10, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24084. Adulteration and misbranding of Katropine Antiseptic Nasal Jelly. U. S. v. 33 Packages of Katropine Antiseptic Nasal Jelly. Default decree of condemnation and destruction. (F. & D. no. 33510. Sample no. 6384–B.)

This case involved a drug preparation which was adulterated and misbranded because of unwarranted curative, therapeutic, and germicidal claims appearing in the labeling.

On September 18, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 33 packages of Katropine Antiseptic Nasal Jelly at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about August 22, 1934, by the Phoenix Drug Co., from Jamaica, Long Island, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of benzocaine (1.2 percent) and essential oils including menthol and camphor, incorporated in fat.

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold, namely, (circular) "Exerting * * * powerful * * * germicidal characteristics."

Misbranding was alleged for the reason that the following statements in the labeling were statements regarding the curative or therapeutic effects of the article and were false and fraudulent: (Carton) "Recommended for * * * Hay Fever Catarrh"; (tube) "Hay Fever Catarrh"; (circular). "* * * an article of outstanding merit and effectiveness as an aid to the treatment of * * * Hay Fever and Sinus troubles. * * * It attacks the offending organisms and it promotes the healing of the inflamed membranes. The head colds of children are particularly insidious and if left untreated may extend to the most grievous results. Infection of the middle ear, swollen glands, with the necessary operation and permanently disfiguring scars may originate with the simple head cold. Sinus infections are caused almost exclusively by malignant infection of the surrounding membranes so as to prevent proper drainage. The head cold, then, is the contributing cause of too many serious diseases to be taken lightly. Katropine offers as nearly perfect protection as has yet been devised. * * * A very small amount squeezed into each nostril and drawn up by a deep breath will in most cases afford immediate and welcome relief. * * * Hay Fever Sinus Infections."

On November 5, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24085. Misbranding of Seavigor. U. S. v. 29 Boxes and 6 Boxes of Seavigor. Default decrees of condemnation and destruction. (F. & D. nos. 33515, 33516. Sample nos. 16503–B, 16506–B.)

These cases involved interstate shipments of a product which was misbranded because of unwarranted curative and therapeutic claims in the labeling. The article was further misbranded since it was represented to be a concentrated food, whereas it was not.

On September 21, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 35 boxes of Seavigor at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about July 5 and August 13, 1934, by the Seavigor Co., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of seaweed.

The article was alleged to be misbranded in that the statement on the label, "A Concentrated Vegetable Food", was false and misleading, since it consisted essentially of seaweed, and a few tablets of seaweed when used as directed would not be representative of a concentrated food, nor would it supply any appreciable quantity of food. Misbranding was alleged for the further reason that the statements on the label, "Seavigor" and "Rich in the Identical Gland Vitalizing Element Found in Raw Oysters", were false and fraudulent. The circular accompanying the package represented that the article was made from a "Concentrated vegetable food from the sea containing one hundred times as much gland vitalizing elements as raw oysters"; and that raw oysters impart a strengthening and stimulating sensation to the entire system; produce tonic and energizing effects on the glands; enhance the vital powers and give a sense of vigor and vitality to those past middle life; give feelings of youthful exhilaration and potency; awaken new life in the jaded glands of men and women; supply a gland-energizing element, lacking entirely or present only in traces in most food products, required in definite constant supply by one of the glands; causes the hungry gland to begin functioning more actively, restoring tone and pep to the body. Numerous other statements made in the circular were to the effect that the article contained elements vital to bodily health, vital to the proper functioning of the body, restoring lost vitality, pep, nerve force, and gland strength, revitalizing tired nerves and weak organs, and causing jaded glands to tingle with the glow of vigorous manhood, awakening energy and restoring the natural powers of men of advanced years, producing stamina, vigorous manhood, boundless energy and endurance, and useful in the treatment of low vitality, premature senility, frigidity, general weakness, run-down conditions, loss of strength, mental backwardness, nervousness, neurasthenia, anemia, underweight, digestive disturbances, chronic constipation, high blood pressure, rheumatism, stomach troubles, skin diseases, women's complaints, sluggish liver, goiter, neuritis, early loss of hair, obesity, susceptibility to colds and many other conditions; all of which the libel alleged was false and fraudulent.

On November 5, 1934, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24086. Misbranding of Sylvester's Genuine Haarlem Oil. U. S. v. 84 Bottles of Sylvester's Genuine Haarlem Oil. Default decree of condemnation and destruction. (F. & D. no. 33517. Sample no. 10826–B.)

This case involved an interstate shipment of a drug preparation which was misbranded because of unwarranted curative and therapeutic claims appearing in the labeling.

On or about October 2, 1934, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 84 bottles of Sylvester's Genuine Haarlem Oil at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about March 10, 1934, by M. Coward from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Bottle) "Sylvester Brand Imported Genuine Haarelm Oil * * * Waanng Tilly Bros., Haarlem-Holland."

Analysis showed that the article consisted essentially of a sulphonated fatty oil and turpentine oil.

The article was alleged to be misbranded in that the following statements contained in the circular shipped with the article were statements regarding its curative or therapeutic effects, and were false and fraudulent: "This Medicine has been used with such good effect that its results were formerly considered little short of miracles. It enters into the system, affecting various parts, and its virtues make themselves felt long after the medicine itself has been expelled by stool or urine. This Remedy has been recommended as being most excellent in stimulating the stomach and the digestive organs, and in so doing to help to purify the blood. * * * It is often used for scurvy, accompanied by proper regulation of the diet, and for worms. In these, and similar diseases, one should take twenty to twenty-five drops daily * * * Where there is an inclination of the eyelids causing, during the night, the accumulation of pus and humors on the lids, a little of this Remedy should be applied by wetting the tip of the finger (better a flock of cotton) with it and by holding this a few moments in the corner of the eye. In the same way is may be used on ulcers, sores, boils, abscesses, etc., * * * a desirable application to fresh sores and in certain affections in the gums by applying it to the affected part. All disorders of long standing, we cannot doubt, require a long and continued treatment before any benefit either from this or from any other remedy may be looked for, and when such disorders have been cured after such a long time the cure has been esteemed as almost a miracle."

On November 9, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24087. Misbranding of yeast and iron tablets. U. S. v. 9 Dozen Bottles of Yeast and Iron Tablets. Default decree of condemnation and destruction. (F. & D. no. 33518. Sample nos. 60751–A, 73601–A.)

This case involved a product, the labeling of which contained unwarranted curative and therapeutic claims. The labeling was further objectionable, since the article was labeled to convey the impression that it was a concentrated food rich in vitamins, the word "yeast" being emphasized on the label. Tests of the article showed that the amount directed for daily consumption would supply about 5 percent of the normal requirement of the body for vitamin B.

On September 25, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 9 dozen bottles of yeast and iron tablets at Tacoma, Wash., alleging that the article had been shipped in interstate commerce on or about February 1, 1934, by the Brunswig Drug Co., from Los Angeles, Calif., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of an iron compound and material derived from plant sources. Biological examination showed that six tablets (the amount directed for daily administration) contained vitamin B equivalent to less than that of 1 gram of a good grade of dried yeast.

The article was alleged to be misbranded in that the following statements appearing in the labeling were false and misleading: (Name of article) "Yeast and Iron Tablets"; (carton and bottle) "A concentrated * * * Food, Rich in Vitamin 'B'"; (carton) "Compounded of specially prepared yeast combined with iron these tablets present * * * the valued nutritive properties of both ingredients. The vitamin content of yeast makes it a valuable food tonic." Misbranding was alleged for the further reason that the following statements in the labeling were statements regarding the curative or therapeutic effects of the article and were false and fraudulent: (Bottle) "A Concentrated Vitalizing Food"; (carton) "A Concentrated Vitalizing Food * * * Compounded of * * * yeast combined with iron * * * scientifically proportioned to produce a food tonic for the upbuilding of health, adding nutrition to run-down systems resulting from loss of appetite and general malnutrition. The vitamin content of yeast makes it a valuable food tonic and its use as such is recognized by the medical profession. Our Yeast and Iron tablets help to * * * correct malnutrition due to a deficient diet."

On January 5, 1935, no claimant having appeared, judgment of condemnation was entered and its was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24088. Misbranding of sarsaparilla compound, alkaline elixir, celery and iron tonic, bronchial remedy, eczema ointment, elixir tonsilitis, blood purifier, eczema lotion, diuretic elixir, Exeme, and analgesic balm. U. S. v. 36 Bottles of Sarsaparilla Compound, et al. Default decrees of condemnation and destruction. (F. & D. nos. 33521 to 33531, incl. Sample nos. 2912–B, 2913–B, 2914–B, 2916–B, 2919–B, 2920–B, 2922–B to 2926–B, incl.)

These cases involved drug preparations which were misbranded because of unwarranted curative and therapeutic claims appearing in the labeling. Certain of the products were further misbranded in the following respects: The sarsaparilla compound, the celery and iron tonic, and the blood purifier were labeled to convey the impression that their principle physiological activity would result from certain vegetable ingredients which were emphasized on the labels, whereas their activity would result primarily from mineral drugs; the sarsaparilla compound and the blood purifier contained laxative drugs which were not mentioned in the list of ingredients; the alkaline elixir contained alcohol which was not declared on the label; the eczema lotion and the diuretic elixir contained alcohol which was not correctly and conspicuously declared; and the Exeme did not possess the sterilizing properties claimed.

On September 25, 1934, the United States attorney for the Southern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of various quantities of the above drug preparations at Cincinnati, Ohio, alleging that the articles had been shipped in interstate commerce between the dates of February 8, 1934, and June 29, 1934, by the De Pree Co., from Holland, Mich., and charging misbranding in violation of the Food and Drugs Act as amended.

Analyses by this Department showed that the sarsaparilla compound consisted essentially of potassium iodide (0.83 gram per 100 milliliters), extracts of plant drugs including a laxative drug, a small proportion of benzoic acid, alcohol, and water; that the alkaline elixir consisted essentially of sodium and potassium salts, a small proportion of benzoic acid, alcohol (0.9 percent), and water; that the celery and iron tonic consisted essentially of iron and ammonium citrate (2.8 grams per 100 milliliters), extracts of plant drugs including celery, sugar, alcohol, and water; that the bronchial remedy consisted essentially of small proportions of sodium and potassium sulphates, benzaldehyde, a trace of benzoic acid, sugar, alcohol and water; that the eczema ointment contained zinc oxide (6.6 percent) and creosote incorporated in petrolatum; that the Elixir Tonsilitis contained per 100 milliliters; Ammonium chloride (0.8 gram), ferric chloride (1.6 grams), sodium chloride (0.5 gram), glycerin, and water; that the Blood Purifier consisted essentially of potassium iodide (0.96 gram per 100 milliliters), extracts of plant drugs including a laxative drug, alcohol, sugar, and water; that the eczema lotion consisted essentially of phenol (0.3 gram per 100 milliliters), alcohol (42.5 percent), and water; that the diuretic elixir consisted essentially of extracts of plant drugs such as uvaursi and buchu, juniper oil, potassium acetate, sugar, alcohol, and water; that the Exeme consisted essentially of iodine (0.03 percent) dissolved in mineral oil (bacteriological examination showed that it was not antiseptic); and that the analgesic balm consisted essentially of chlorbutanol (0.8 percent) and volatile oils including methyl salicylate and peppermint oil (15 percent), incorporated in a mixture of petrolatum and fat.

The articles were alleged to be misbranded in that the following statements appearing in the labeling, regarding their curative and therapeutic effects, were false and fraudulent: (Sarsaparilla compound) "An Effective Remedy Recommended When a Blood Purifier or General * * * Tonic is Needed Nurse Brand Sarsaparilla Compound combines the medicinal virtues of a number of roots and herbs that are noted for their action in purifying the blood and cleansing the system of impurities. These impurities usually manifest themselves in skin troubles such as Boils, Blotches; or in Sluggishness of the Liver with resultant * * * General Listlessness and Depressed Feeling. Sarsaparilla Compound stimulates the functional activities of the system and is valuable as an invigorating tonic as well as a Blood Purifier. As its name implies, the base of this preparation is the purest Honduras Sarsaparilla Root, well known for its purifying action on the blood. This combination has a direct alterative action on the blood, cleansing it of impurities and forming a valuable general Tonic for the system"; (alkaline elixir) "* * * tends to restore the alkalinity of the system necessary to perfect health For the Treatment of Acid Conditions of the System Nurse Brand Alkaline Elixir is recommended for the correction and prevention of ailments arising from acid

conditions such as Rheumatic affections, uric acid diathesis, Gout * * * Joint Infections, Inflammation, and Autointoxication"; (celery and iron tonic) "Celery and Iron Tonic A Tonic for the Nerves, Blood and General System Nurse Brand Celery and Iron Tonic is designed to vitalize the nerve Centers, and to enrich the Blood by supplying iron (the element that produces red corpuscles) This combination is peculiarly adapted to give tone and vitality to the nervous system and to add strength and richness to the blood by increasing the red blood corpuscles It is recommended as a general tonic for the nervous system, for nervous depression, lack of vitality, anaemic conditions, loss of energy, listlessness, and similar conditions"; (bronchial remedy, bottle) "Bronchial Remedy for Persistent Coughs * * * This remedy is designed to give permanent relief"; (carton) "Bronchial Remedy especially intended for the treatment of Persistent Coughs. It is of peculiar value in the treatment of stubborn coughs following colds * * * coughs which will not yield to ordinary remedies San Tox Bronchial Remedy seldom fails to give relief, even in obstinate cases, * * * Bronchial Remedy"; (eczema ointment, jar) "Eczema Ointment for the Treatment of Eruptions and Skin Diseases. * * * "Eczema Ointment"; (carton) "Eczema Ointment For the treatment of Eczema, Salt Rheum * * * Tetter Ring Worm Pimples and other affections of the skin. Also useful in scalp diseases * * * healing ointment possessing marked remedial properties when used in the treatment of eruptive and inflamed conditions of the skin"; (elixir tonsilitis) "Elixir Tonsilitis Minor Cases of * * * Quinsy, Following Head Colds"; (blood purifier) "Blood Purifier * * * A Reliable Blood Purifier * * * Nurse Brand Blood Purifier is a concentrated Extract of well known roots and barks noted for their alterative and tonic action upon the blood and liver, and thus the entire system. The formula includes iodide of potash, a powerful agent in removing impurities from the blood * * * Nurse Brand Blood Purifier is valuable * * * in treating disorders arising from a sluggish liver and in skin affections resulting from impure blood,—the symptoms usually being Listlessness, Lack of Energy, Coated Tongue, Boils, Pimples and Blotches"; (eczema lotion) "Eczema Lotion * * * healing lotion for the treatment of eruptive and inflamed conditions of the skin and scalp such as Eczema, * * * Salt Rheum, Pimples, Tetter, and Ring Worm Also valuable in treating diseases of the scalp"; (diuretic elixir) "* * * proven value in the treatment of disorders of the Kidneys and Bladder. The usual symptoms of such disorders are Pains and Weakness in the Back, insufficient secretion of urine, * * * or scalding, burning, suppression or discoloration of the urine. This remedy is designed to regulate and assist the Kidneys and Bladder in performing their functions and to aid in the elimination of poisons and waste matter from the urinary tract. For the Treatment of Kidney, Bladder and Urinary Distorders"; (Exeme) "Exeme A Treatment for the relief of many forms of Eczema"; (analgesic balm, bottle and carton) "Devoted to the Relief of Pain * * * for the relief of pain in * * * migraine, Rheumatism, Lumbago * * * etc."; (circular) "* * * when applied locally, will alleviate pain. * * * For the immediate relief of * * * Rheumatism, Neuritis, Lumbago, Sciatica, * * * etc., it is invaluable. * * * For minor surface pains and aches, only a small amount of balm and light rubbing is necessary, but for more deep seated, severe disorders a more liberal portion applied with gentle, more prolonged massaging will invariably result in completely dispelling the pain, temporarily, if not always permanently * * * aching feet * * * bunions * * * are greatly relieved." Misbranding of the sarsaparilla compound was alleged for the further reason that the following statements appearing in the labeling, "Sarsaparilla Compound", "Nurse Brand Sarsaparilla Compound combines the medicinal virtues of a number of roots and herbs" and "As its name implies, the base of this preparation is the purest Honduras Sarsaparilla Root * * * In addition, the formula contains such ingredients as Red Clover, Sassafras, Dandelion, Burdock, and Potassium Iodide", were false and misleading since the ingredient upon which the physiological effects of the article principally depended was not sarsaparilla, but was potassium iodide, and the product contained a laxative drug not mentioned in the list of ingredients. Misbranding of the celery and iron tonic was alleged for the further reason that the statement on the label, "Celery and Iron Tonic", was false and misleading since its tonic properties were due solely to its iron content and in no degree due to its content

of celery. Misbranding of the blood purifier was alleged for the further reason that the following statements appearing on the bottle label, "Nurse Brand Blood Purifier is a concentrated Extract of well known roots and barks * * * Nurse Brand Blood Purifier combines the powerful tonic and alterative virtues of the following ingredients: Honduras Sarsaparilla, Dandelion Root, Burdock Root, Red Clover Tops, Potassium Iodide", were false and misleading since the product contained a laxative plant drug not mentioned among the ingredients on the label, and potassium iodide, a mineral drug. Misbranding of Exeme was alleged for the further reason that the statement on the carton, "The action of Exeme is to Sterilize the Affected Parts", was false and misleading. Misbranding of the alkaline elixir, eczema lotion, and diuretic elixir was alleged for the further reason that the packages failed to bear on the label a statement of the quantity or proportion of alcohol contained in the articles since in the case of the alkaline elixir no declaration of alcohol appeared; in the case of the eczema lotion the declaration was incorrect and was inconspicuously made; and in the case of the diuretic elixir the declaration was inconspicuously placed on the side panel of the label.

On November 9, 1934, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24089. Misbranding of Oxidine. U. S. v. 141 Packages of Oxidine. Default decree of condemnation and destruction. (F. & D. no. 33532. Sample no. 11340-B.)

This case involved a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling, and because it was represented to contain no harmful drugs, analysis having shown that it contained drugs that might be harmful.

On September 24, 1934, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 141 packages of Oxidine at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about August 25, 1934, by the Dr. W. A. Link Medicine Co., from Dallas, Tex., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Oxidine * * * Manufactured only by W. S. Kirby Co. Dallas, Texas."

Analysis showed that the article consisted essentially of cinchona alkaloids (4.1 grains per fluid ounce), an iron compound, a laxative plant drug extract, sugar, and water.

The article was alleged to be misbranded in that the statement on the carton in Spanish, "Does not contain harmful drugs" and the statement on the label, "Contains no * * * Harmful Drugs", were false and misleading. Misbranding was alleged for the further reason that the following statements appearing in the labeling were statements regarding the curative or therapeutic effects of the article and were false and fraudulent: (Carton, in Spanish) "* * * acts on the liver and is helpful to the organism"; (large circular) "For Health"; (small circular) "* * * has guarded the lives of thousands of men, women and children against disease. Take Oxidine for * * * Tired feeling Pains in the back Purifying your blood Flu and LaGrippe Regulating your liver Dull feeling in the head Sleeplessness Bad taste in your mouth Headaches and Neuralgia * * * an effective remedy for * * * La Grippe * * * and system builder. [testimonials in small circular] '* * * I have never had the Flu. Now, just why I have never had the Flu I have not the slightest idea, unless it is because a bottle of Oxidine and myself have been consistent and inseparable companions for the past twenty-five years. * * * I take for granted that it is good for most everything; for headache, * * * for biliousness, * * * for La Grippe. I take Oxidine and enjoy most instant relief'; 'We can cheerfully recommend "Oxidine" to anyone who is suffering from * * * loss of blood. This is the finest blood medicine we ever saw.'"

On November 15, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriuulture.*

24090. Misbranding of Inthol. U. S. v. 105 Bottles and 78 Bottles of Inthol. Default decrees of condemnation and destruction. (F. & D. nos. 33535, 33536. Sample nos. 16502–B, 16507–B.)

This case involved a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling, and because the package failed to bear a declaration of the quantity or proportion of alcohol contained in the article.

On September 24, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 183 bottles of Inthol at Newark, N. J., alleging that the article had been shipped in interstate commerce in various shipments on or about June 18, July 20, and August 28, 1934, by the Inthol Co., Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of volatile oils including eucalyptus oil, pine-needle oil, lavender oil, and turpentine oil (60 percent), and alcohol (40.5 percent).

The article was alleged to be misbranded in that the package failed to bear on the label a statement of the proportion of alcohol contained therein. Misbranding was alleged for the further reason that the following statements appearing in the labeling were statements regarding the curative or therapeutic effects of the article, and were false and fraudulent: (Bottle) "Stops Pain, Penetrates, Relieves, Stimulates, Heals * * * Until relieved * * * In acute congestions (as pneumonia) use one bottle every hour until relieved"; (retail carton) "For colds, croup, bronchitis, tonsilitis * * * Ear Aches * * * Muscular Rheumatism * * * Stops Pain * * * Penetrates, relieves, stimulates, Heals * * * In Congestions"; (display carton) "Stops Pain * * * Penetrating * * * Colds, Neuralgia * * * Prevents infection"; (circular) "Stops Pain * * * Penetrates–Relieves–Stimulates–Heals * * * Neuralgia, Colds, Croup * * * Muscular Pains * * * Neuralgia, colds * * * assists Nature to build up injured tissue. * * * Inthol by its own action quickly penetrates and stimulates * * * Penetrating quality * * * wonderful, healing power * * * For Neuralgia * * * Muscular Pains, Deep-seated conditions * * * Inthol's healing power * * * and heal the parched tissue * * * For croup, tonsilitis and bronchitis * * * For Colds and Congestion, For head colds * * * in chest colds."

On November 5, 1934, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24091. Misbranding of Red Circle Pills. U. S. v. 49 Display Cartons of Red Circle Pills. Default decree of condemnation and destruction. (F. & D. no. 33541. Sample no. 16612–B.)

This case involved a drug preparation, the labeling of which contained unwarranted curative and therapeutic claims.

On September 27, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 49 display cartons, each containing 12 boxes, of Red Circle Pills at Newburgh, N. Y., alleging that the article had been shipped in interstate commerce on or about October 24 and November 21, 1932, by James F. Stras, from LaCrosse, Wis., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of mercury, laxative plant drugs, calcium carbonate, an iron compound, and a small amount of emetine.

The article was alleged to be misbranded in that the following statements appearing in the labeling, were statements regarding the curative and therapeutic effects of the article, and were false and fraudulent: (Display carton) "Assist the Liver * * * Liver, Kidney and Stomach Remedy."

On October 24, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24092. Misbranding of WTC Anti-Pollen Salve. U. S. v. 34 Dozen Jars of WTC Anti-Pollen Salve. Default decree of destruction. (F. & D. no. 33577. Sample no. 3351–B.)

This case involved an interstate shipment of a drug preparation which was misbranded because of unwarranted curative and therapeutic claims appearing in the labeling. The article was labeled to convey the impression that it contained ingredients that would resist pollen, whereas its only action against pollen would be mechanical in coating the nasal passages with grease.

On September 28, 1934, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 34 dozen jars of WTC Anti-Pollen Salve at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about August 23, 1934, by the Corn Chemical Co., from Cleveland, Tenn., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of aluminum chloride (2.1 percent) incorporated in a mixture of petrolatum and wool fat.

The article was alleged to be misbranded in that the following statements appearing in the labeling were false and misleading: (Jar label and circular) "Anti-Pollen Salve"; (carton label) "Anti-Pollen Salve 'Resistant to 95 out of every 100 kinds of pollen.'" Misbranding was alleged for the further reason that the following statements regarding the curative and therapeutic effects of the article were false and fraudulent: (Jar label) "For Hay Fever"; (carton label) "For Hay Fever Immediate relief for Hay Fever * * * For Hay Fever"; (circular) "WTC Anti-Pollen Salve gives quick, positive and lasting relief to practically all kinds of Hay Fever sufferers. * * * If you do not obtain positive relief within eight hours after applying salve it will Never help you and should be returned to druggist at once. This guarantee is made For One Day Only, because of the cost involved and because a longer period of testing is unnecessary. * * * After this first treatment the nose becomes immunized and less sensitive."

On November 27, 1934, no claimant having appeared, a decree was entered adjudging the product to be misbranded and ordering that it be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24093. Misbranding of Dr. Clifton's Brazolian Herbs, Brazolian Herb Tablets, and Brazolian Oil. U. S. v. 21 Boxes of Dr. Clifton's Brazolian Herbs, et al. Default decree of condemnation and destruction. (F. & D. nos. 33593, 33594, 33595. Sample nos. 16613–B, 16614–B, 16615–B.)

This case involved drug preparations, the labeling of which contained unwarranted curative and therapeutic claims.

On October 2, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 21 boxes of Brazolian Herbs, 22 boxes of Brazolian Herb Tablets, and 21 bottles of Brazolian Oil at Newburgh, N. Y., alleging that the articles had been shipped in interstate commerce, on or about April 9 and April 14, 1934, by J. F. Stras, from La Crosse, Wis., and charging misbranding in violation of the Food and Drugs Act as amended. The articles were labeled in part: "Dr. Clifton's Brazolian Herbs [or "Herb Tablets" or "Oil"] * * * Prepared by the Clifton Drug Company, Girard, Illinois."

Analyses showed that the Brazolian Herbs consisted of powdered plant drugs including aloe and other laxative drugs and salicylic acid; that the Brazolian Herb Tablets contained powdered plant drugs including aloe and other laxative drugs; and that the Brazilian Oil consisted essentially of capsicum, oleoresin, nitrobenzene, and gasoline.

The articles were alleged to be misbranded in that the following statements appearing in the labeling, were statements regarding the curative or therapeutic effects of the articles and were false and fraudulent: (Brazolian Herbs, carton) "Acts on The Stomach, Kidneys and Bowels"; (box label) "Acts on the Stomach Kidneys and Bowels"; (circular) "Used For Diseases Of The Stomach and Kidneys * * * Modern civilization is undermining the vigor of the human race. * * * Dyspepsia is becoming more common among the American people. * * * Dr. Clifton's Herbs * * * they are good for Dyspepsia. * * * They are useful as a kidney medicine. The kidneys are the organs which when in a healthy condition strain out the poisons of the body. Keep your kidneys active and it will be of assistance in keeping the body

in a healthy condition. * * * 'I have had stomach trouble for twelve years. I could eat nothing * * * I was sick and nervous and felt like ending my days when I purchased a box of your herbs and tried them. In five days I was a new man and could eat anything. I feel fine now and am working every day.' * * * 'A friend of mine has stomach trouble * * *' 'I was afflicted for twenty-five years. My joints hurt me and I was in bed about half of the time. Since taking it, I feel 80% better.'"; (Brazolian Herb Tablets, carton label) "Nature's Kidney, Liver and Stomach Regulator * * * Try this Medicine for * * * Stomach Troubles, Intestinal Catarrh, Indigestion, Rheumatism, Liver and Kidney Disorders"; (box label) "Acts On The Stomach, Kidneys And Bowels"; (circular) "Used for Diseases Of The Stomach and Kidneys * * * modern civilization is undermining the vigor of the human race. Dyspepsia is becoming more common among the American people * * * Dr. Clifton's Herbs * * * they are good for Dyspepsia. Dr. Clifton's Herbs * * * are useful as a kidney medicine. The kidneys are the organs which when in a healthy condition strain out the poisons of the body. Keep your kidneys active and it will be of assistance in keeping the body in a healthy condition. * * * 'I have had stomach trouble for twelve years. * * * I was sick and nervous and felt like ending my days when I purchased a box of your herbs and tried them. In five days I was a new man and could eat anything. I feel fine now and am working every day.' * * * 'A friend of mine has stomach trouble * * * '; ' * * * what your wonderful Brazolian Herbs have done for me. I was afflicted for twenty-five years. My joints hurt me and I was in bed about half of the time. Since taking it, I feel 80% better'"; (Brazolian Oil, carton) "Used for * * * Toothache * * * Rheumatism, Stiff Joints Lame Back Contracted Cords * * * and Sore Throat", (bottle label) "For * * * Toothache, Earache, * * * Rheumatism, Etc. * * * Affected Parts * * * For Deafness"; (circular) "Used for pain, stiff joints, soreness due to rheumatism * * * This liniment is also used for sore muscles, sore throat and enlarged glands of the neck. * * * 'I was attacked with a case of acute Rheumatism * * * a friend informed me of your liniment and I bought one bottle and followed your directions. The pain left me entirely * * * nothing better on the market for Rheumatism than your Brazolian Oil.' '* * * thought my leg was broken just below the knee. My limb swelled up and pained me so that I could not rest. A lady gave me a bottle of your Brazolian Oil and the relief it gave was wonderful'; '* * * your Brazolian Oil * * * it killed every ache and pain * * * I would never let others suffer with * * * toothache or any other pain * * * toothache'."

On October 20, 1934, no claimant having appeared, judgment of condemnation and forfeiture was entered and it was ordered that the products be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24094. Misbranding of Dr. Ivey's Vigor-Aid. U. S. v. 8 Bottles of Dr. Ivey's Vigor-Aid. Default decree of destruction. (F. & D. no. 33598. Sample no. 4419–B.)

This case involved a product which was misbranded because of unwarranted curative and therapeutic claims appearing in the labeling and because it was represented to be perfectly harmless, analysis having shown that it contained ingredients that might be harmful.

On or about October 1, 1934, the United States attorney for the Western District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of eight bottles of Dr. Ivey's Vigor-Aid at Paducah, Ky., alleging that the article had been shipped in interstate commerce on or about August 27, 1934, by the Ivey Medicine Co., from Oklahoma City, Okla., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis by this Department showed that the article consisted essentially of potassium iodide (4.46 grams per 100 milliliters), extracts of plant drugs including a laxative drug, alcohol, glycerin, sugar, and water.

The article was alleged to be misbranded in that the statement on the carton, "Dr. Ivey's Vigor-Aid is perfectly harmless when taken as directed", was false and misleading in view of the composition of the product. Misbranding was alleged for the further reason that the following statements regarding its curative or therapeutic effects, were false and fraudulent: (Bottle

label) "Vigor-Aid * * * Healing Tonic and Powerful Germicide * * * Specially Recommended for Treponemiasis and all resultant Catarrhal, Inflamatory conditions of the Throat, Bronchial Tubes, Lungs, Incipient Tuberculosis, Loss of Weight and Strength, Anaemia, Arthma, Nervous Dyspepsia, Chronic Constipation, Torpid Liver, Neuralgia, Blood Diseases, Muscular Rheumatism, Kidney, Bladder and Prostate Gland Troubles, Uterine and Ovarian Pains, also for Very Weak Organs, called Functional Impotency"; (bottle and carton labels) "Directions:—After Shaking the Bottle, adults should take about one tablfespoonful in very little water, three times each day after meals, and one dose at midnight if restless. Dose for children should be regulated according to the age and weight of the child"; (carton label) "Vigor-Aid * * * Healing, Tonic And Powerful Germicide * * * Specially recommended for Treponemiasis and all resultant Catarrhal, Inflamatory conditions of the throat, Bronchial Tubes, Lungs, Incipient Tuberculosis, Loss of Weight and Strength, Anaemia, Asthma, Nervous Dyspepsia, Chronic Constipation, Torpid Liver, Neuralgia, Blood Diseases, Muscular Rheumatism, Kidney, Bladder and Prostate Gland Troubles, Uterine and Ovarian Pains, also for very Weak Organs, called Functional Impotency. * * * Vigor-Aid is absolutely good for so many ailments, It is Regarded, By Those Who Have Used It, As a Household Necessity. * * * (The Great Alterative Medicine) * * * Vigor-Aid * * * Dr. Ivey's Vigor-Aid * * * satisfactorily relieve the few diseases and disordered conditions for which it is so highly recommended. * * * for the relief of numerous little ailments * * * Dr. Ivey's Vigor-Aid, kept constantly on hand, and used when needed, will keep the Doctor away, and save you much needless suffering and expense. Delicate children, from two to ten years old, can often be restored to the bloom of health and vigor by taking from 20 to 40 drops of Dr. Ivey's Vigor-Aid, in about one tablespoonful of water, after each meal, for a short time. * * * it is a natural antidote to so many ills, and is, we believe, the greatest tonic and health restorative ever discovered."

On November 21, 1934, no claimant having appeared, judgment was entered ordering that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24095. Adulteration and misbranding of chloroform. U. S. v. 37 Bottles, et al., of Chloroform. Default decree of condemnation and destruction. (F. & D. no. 33626. Sample no. 20563–B.)

This case involved a shipment of chloroform which was found to contain nitrobenzene.

On October 3, 1934, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of thirty-seven 1-pound bottles, one 2-pound bottle, and 1 drum containing 20 pounds of chloroform, at Buffalo, N. Y., consigned by McKesson-Robbins, Inc., alleging that the articles had been shipped in interstate commerce on or about July 2, 1934, from Bridgeport, Conn., into the State of New York, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Chloroform USP."

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength, quality, and purity as determined by the test laid down therein, and its own standard was not stated upon the label.

Misbranding was alleged for the reason that the statement on the label, "Chloroform USP", was false and misleading.

On November 5, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24096. Misbranding of Pinerva Pine-Needle Rub, Pinerva-Balsam, Pine-Needle Bath Tonic, and Pinerva Pine-Needle Bath Salts. U. S. v. 8 Bottles of Pinerva Pine-Needle Rub, et al. Default decrees of condemnation and destruction. (F. & D. nos. 33641, 33642, 33643. Sample nos. 2166–B, 2167–B, 2168–B.)

These cases involved interstate shipments of products which were misbranded because of unwarranted curative and therapeutic claims in the labeling. The Pine-Needle Bath Salts were further misbranded since the article was labeled to convey the impression that it was composed essentially of substances derived from pine needles, whereas it was not.

On October 9, 1934, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 8 bottles of Pinerva Pine-Needle Rub, 6 bottles of Pinerva-Balsam Pine-Needle Bath Tonic, and 15 Boxes of Pinerva Pine-Needle Bath Salts at Chicago, Ill., alleging that the articles had been shipped in interstate commerce on or about August 30, 1934, by the Pinerva Laboratories, Inc., from Milwaukee, Wis., and charging misbranding in violation of the Food and Drugs Act as amended.

Analyses showed that the Pinerva Pine-Needle Rub consisted essentially of volatile oils including pine-needle oil (by volume 8.0 percent), alcohol (75 percent), and water; that Pinerva-Balsam Pine-Needle Bath Tonic consisted essentially of volatile oils including pine-needle oil (31 percent by volume), a sulphonated oil (28.4 grams per 100 cubic centimeters), ammonium, sodium, and potassium compounds, sulphates, and water (35 percent); and that Pinerva Pine-Needle Bath Salts consisted essentially of sodium bicarbonate (49 percent), sodium chloride (48 percent), traces of pine-needle oil and a red dye, and a small proportion of water.

The articles were alleged to be misbranded in that the following statements appearing in the labeling were statements regarding the curative or therapeutic effects of the articles and were false and fraudulent: (Pinerva Pine-Needle Rub, carton) "Pinerva * * * A * * * soothing remedy for all nervous ailments. * * * You Owe It To Your Health * * * When applied regularly, Pinerva is an effective remedy for the relief of rheumatism, neuritis, gout * * * Its * * * pine forest fragrance makes it especially invigorating and soothing to the nerves. * * * For relief against pain rub affected parts regularly * * * As a * * * nerve soothing and stimulating tonic, apply to the entire body"; (bottle label) "Pinerva * * * A * * * soothing remedy for all nervous ailments. * * * Pinerva is unexcelled for rheumatism, neuritis, gout * * * when used as a general body rub makes it especially invigorating and soothing to the nerves"; (circular) "Pinerva Health Building * * * Pinerva products are soothing * * * to the nerves. * * * Pinerva Rub when used after a Pinerva tonic bath promotes a sound and restful sleep. * * * is highly beneficial in the treatment of muscle and joint pains, rheumatism, gout, and neuritis. * * * if used when the body is in a run down condition relaxes the nerve centers and has a * * * invigorating effect on the entire system. * * * upbuilding * * * insures * * * nerve soothing benefits. * * * used as a dressing gives relief for * * * other skin affections. * * * when applied to the head * * * relieves * * * sick headaches. * * * In case of pain rub affected parts * * * You Owe It To Your Health To Use Pinerva For The Nerves * * * soothing * * * to the nerves * * * Pinerva products with their highly concentrated coniferous oil content makes them especially beneficial in cases of sleeplessness, lack of energy, depleted nerves, general depression, irritability and other nervous disorders. They are an effective relief in cases of rheumatism, neuritis, gout * * * Pinerva builds up the body * * * Their fragrance * * * alleviate body pain and discomfort. Why Go To Europe When You Can Take These Famous Cures At Moderate Cost Right In Your Own Home * * * Pinerva for the Nerves"; (Pine-Needle Bath Tonic, carton) "Pinerva * * * Tonic * * * Strengthens the nerves and heart * * * acts as a * * * tonic to the skin, and gives vitality to the entire system. * * * You Owe It To Your Health * * * tonic * * * has a strengthening and stimulating effect on * * * those suffering from disorders of the circulatory and respiratory systems. It is highly beneficial in cases of insomnia, rheumatism, and gout"; (bottle label) "Pinerva * * * Tonic * * * Strengthens the nerves and heart * * * acts as a * * * tonic to the skin, and gives vitality to the entire system. Pinerva * * * In the bath is strengthening and stimulating * * * those suffering from disorders of the circulatory and respiratory system. Beneficial against insomnia, rheumatism and gout"; (circular) "Pinerva Health Building * * * Pinerva products are soothing * * * to the nerves. * * * Pinerva Rub when used after a Pinerva tonic bath promotes a sound and restful sleep. * * * Tonic * * * You Owe It To Your Health to Use Pinerva For The Nerves * * * soothing * * * to the nerves * * * refreshing Balsam of Pine aroma is a tonic to which depleted nerves instantly respond. The medicinal qualities of Pinerva products with their highly concentrated coniferous oil content makes them especially beneficial in cases of sleeplessness, lack of energy, depleted

nerves, general depression, irritability and other nervous disorders. They are an effective relief in cases of rheumatism, neuritis, gout * * * Pinerva builds up the body * * * Their fragrance * * * alleviate body pain and discomfort. Why Go To Europe When You Can Take These Famous Cures At Moderate Cost Right In Your Own Home * * * healing * * * Pinerva Balsam in the bath is especially beneficial in cases of insomnia, rheumatism and gout. Pinerva Balsam * * * has a strengthening and stimulating effect * * * those suffering from disorders of the circulatory and respiratory systems. * * * strengthens the nerves and heart, acts as a tonic to the skin and gives vitality to the entire system. * * * promotes skin breathing * * * Pinerva for the Nerves"; (Pine-Needle Bath Salts, carton) "Pinerva * * * Soothing * * * to the nerves"; (tube) "Pinerva * * * are stimulating and invigorating to the heart and nerves. Effective against insomnia, relieve rheumatism, gout, lumbago, sore joints"; (circular) "Pinerva Health Building * * * Pinerva genuine pine-needle health building preparations * * * With their natural pine forest fragrance Pinerva products are soothing * * * to the nerves. * * * You Owe It To Your Health To Use Pinerva For The Nerves * * * soothing * * * to the nerves. * * * The medicinal qualities of Pinerva products with their highly concentrated coniferous oil content makes them especially beneficial in cases of sleeplessness, lack of energy, depleted nerves, general depression, irritability and other nervous disorders. They are an effective relief in cases of rheumatism, neuritis, gout * * * Give nature a chance by using Pinerva preparations. Pinerva builds up the body thru natural means and with their refreshing pine forest fragrance are Nature's own remedy. * * * Their fragrance soothes * * * and alleviate body pain and discomfort. Why Go To Europe When You Can Take These Famous Cures At Moderate Cost Right in Your Own Home. * * * Pinerva Bath Salts relax the nerves and promote a restful sleep. * * * are stimulating to the heart and nerves and have an invigorating effect on the entire system. * * * when used regularly give relief in cases of rheumatism, gout, lumbago, sore * * * joints. * * * Inhale deeply and breathe regularly so that the soothing healing vapors of the natural pine oils penetrate into the lungs. * * * Pinerva for the Nerves." Misbranding of the Pine-Needle Bath Salts was alleged for the further reason that the following statements appearing in the labeling were false and misleading in view of the composition of the article: (Carton) "The Genuine Pine Needle Bath Salts"; (tube label) "The Genuine Pine Needle Toilet and Bath Salts"; (circular) "Pinerva medicinal preparations are compounded of the finest imported Pine-needle and other coniferous oils * * * Many prefer Pinerva genuine pine-needle Bath Tonic in Bath Salt form."

On November 8, 1934, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24097. Misbranding of Dr. Jacob Becker's Celebrated Eye Balsam. U. S. v. 23 Packages of Dr. Jacob Becker's Celebrated Eye Balsam. Default decree of condemnation and destruction. (F. & D. no. 33692. Sample no. 14826-B.)

This case involved a drug preparation which was misbranded because of unwarranted curative and therapeutic claims contained in the label.

On October 15, 1934, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 23 packages of Dr. Jacob Becker's Celebrated Eye Balsam at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about June 12, 1934, by W. M. Olliffe, from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of mercuric oxide, mercury, and sand incorporated in a fat such as beef tallow.

The article was alleged to be misbranded in that the following statements regarding its curative or therapeutic effects, appearing in the labeling, were false and fraudulent: (Tin box) "Eye Balsam"; (carton) "Eye-Bolsam * * * Eye-Balsam Brings Instant Relief * * * Immediate relief for Granulated Eyelids, Kleig Eye, Styes, Pink Eye, Inflamed and Sore Eyes"; (circular) "Eye-Balsam, Brings Immediate Relief for Granulated Eyelids, Kleig Eye, Stys, Sore, Weak * * * or Inflamed Eyes Inflammation of the eye arises from many various causes, viz., from certain diseases of the blood, which

includes the painful inflammatory swellings called stys, frequently occurring on the margins of the lids, from infections following blows, contusions and wounds on the eye; from the irritation caused by foreign bodies that gain entrance under the eyelids; from exposure to bleak winds and cold, smoke, various acrid fumes, acting as chemical irritants; from the long application of strong light, or fixed attention to minute objects, etc. Directions * * * In cases of Infants or in weakness of the Eyes from old age * * * Eye Balsam * * * the afflicted * * * Eye Balsam This famous remedy has been used by countless sufferers of tired, weak and inflamed eyes * * * Brings immediate relief for granulated eyelids, Kleig eye, styes and pink eye. [Testimonials] 'Since using Dr. Becker's Eye Balsam I have enjoyed the best of comfort with my eyes while before they gave me much trouble in studying my parts for the different plays not to mention the strong stage lightning.' * * * 'I have suffered with my eyes for many years * * * I was ordered to wear glasses by the Eye and Ear Doctors of New York and they also did not help me. But with only three applications of your Dr. Jacob Becker's Eye Balsam, which I used since last March, 1927, all my troubles stopped.' * * * 'I have used Dr. Becker's Eye Balsam to my great relief and cure and in the past 3 years I have recommended it to hundreds of my friends, and as yet I have not heard of a failure to give relief and cure some of the worst cases of eye troubles I ever saw.' [Similar statements in foreign languages]."

On January 8, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24098. Adulteration of chloroform. U. S. v. 100 Bottles and 25 Bottles of Chloroform. Default decree of condemnation and destruction. (F. & D. no. 33694. Sample no. 16761–B.)

This case involved chloroform which differed from the standard laid down in the United States Pharmacopoeia.

On October 15, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one hundred 1-pound bottles and twenty-five 6-pound bottles of chloroform at New York, N. Y., alleging that the article had been shipped in interstate commerce, in bulk, on or about August 22 and September 26, 1934, by McKesson & Robbins, Inc., from Bridgeport, Conn.; that it had been transferred to bottles and labeled by the consignee; and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Chloroformum Chloroform U. S. P."

Analysis showed that the article failed to conform to the pharmacopoeial test for substances decomposable by sulphuric acid.

Adulteration was charged in that the article was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down in the said pharmacopoeia.

On November 1, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24099. Adulteration and misbranding of tincture of aconite and aconite tablets. U. S. v. National Drug Co. Plea of nolo contendere. Fine, $100. (F. & D. no. 33758. Sample nos. 68909–A, 68910–A.)

This case was based on an interstate shipment of tincture of aconite which was below the pharmacopoeial standard, and of aconite tablets which contained a smaller proportion of tincture of aconite than declared on the label.

On October 15, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the National Drug Co., a corporation, Philadelphia, Pa., alleging shipment by said company on or about December 21, 1933, from the State of Pennsylvania into the State of New Jersey of a quantity of tincture of aconite and a quantity of aconite tablets which were adulterated and misbranded. The articles were labeled, respectively: "Tincture Aconite U. S. P. X."; "Tablet Triturates Aconite Tincture, U. S. P. 2 Minim in each Tablet." Both articles were labeled: "Manufactured and Guaranteed By The National Drug Co., Philadelphia, Pa."

The tincture of aconite was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength, quality, and purity as determined by the test laid down therein, in that the article when administered subcutaneously to

guinea pigs had a minimum lethal dose of more than 0.00045 cubic centimeter, namely, not less than 0.0015 cubic centimeter for each gram of body weight of guinea pig; whereas the pharmacopeia provides that tincture of aconite when administered subcutaneously to guinea pigs shall have a minimum lethal dose of not more than 0.00045 cubic centimeter for each gram of body weight of guinea pig; and the standard of strength, quality, and purity of the article was not declared on the container. Adulteration was alleged for the further reason that the strength and purity of the article fell below the professed standard and quality under which it was sold. Adulteration of the aconite tablets was alleged for the reason that the strength and purity of the article fell below the professed standard and quality under which it was sold in that each tablet was represented to contain 2 minims of tincture of aconite U. S. P.; whereas each tablet contained less than 2 minims, namely, not more than 0.3 minim of tincture of aconite U. S. P. Misbranding of both products was alleged for the reason that the statements, "Tincture Aconite U. S. P. X" and "Tablet Triturates Aconite Tincture, U. S. P. 2 Minim in each Tablet", borne on the labels, were false and misleading.

On December 7, 1934, a plea of nolo contendere was entered on behalf of the defendant company, and the court imposed a fine of $100.

M. L. WILSON, *Acting Secretary of Agriculture.*

24100. Adulteration and misbranding of Oxy Indian Cough Syrup. U. S. v. O. H. D. Co., Inc., and Lacy R. Oxendine. Pleas of guilty. Fines, $20. (F. & D. no. 33789. Sample no. 66180-A.)

This case was based on an interstate shipment of a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling and because it was falsely represented to be an Indian remedy. The article was also adulterated and further misbranded, since it contained smaller proportions of alcohol and chloroform than declared.

On January 7, 1935, the United States attorney for the District of Delaware, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the O. H. D. Co., Inc., and Lacy R. Oxendine, of Wilmington, Del., alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about November 13, 1933, from the State of Delaware into the State of New Jersey, of a quantity of Oxy Indian Cough Syrup which was adulterated and misbranded. The article was labeled in part: "Oxy [design of Indian head] Indian Cough Syrup * * * Each fluid ounce contains Alcohol 7½% Chloroform 5 M. * * * O. H. D. Company, Inc. Wilmington, Del."

Analysis showed that the article consisted of a concentrated solution of sugar in water and glycerin containing 1.43 percent of alcohol and 1.90 minims of chloroform per fluid ounce. It also contained menthol and what was indicated as horehound extract.

The article was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, in that each fluid ounce was represented to contain 7½ percent of alcohol and 5 minims of chloroform; whereas each fluid ounce contained not more than 1.43 percent of alcohol and not more than 1.90 minims of chloroform.

Misbranding was alleged for the reason that certain statements, designs, and devices regarding the curative and therapeutic effects of the article, appearing on the bottle labels and cartons, falsely and fraudulently represented that it was effective to combat disorders of catarrhal and rheumatic conditions arising from exposure to cold; and effective as a treatment, remedy, and cure for coughs, bronchitis, sore throat, hoarseness, tonsilitis, and any condition arising from exposure to cold. Misbranding was alleged for the further reason that the statements, "Each Fluid Ounce contains Alcohol 7½%, Chloroform 5 m.", and "Indian Cough Syrup", borne on the carton and bottle labels, were false and misleading since the said statements represented that each fluid ounce of the article contained 7½ percent of alcohol and 5 minims of chloroform, and that the article was produced by the Indians; whereas each fluid ounce contained less than 7½ percent of alcohol, less than 5 minims of chloroform, and it contained ingredients unknown to the Indians. Misbranding was alleged for the further reason that the article contained alcohol and chloroform, and the label on the package failed to bear a statement of the quantity or proportion of alcohol and chloroform contained therein.

On January 8, 1935, the defendants entered pleas of guilty, and the court imposed fines in the total amount of $20.

M. L. WILSON, *Acting Secretary of Agriculture.*

24101. Adulteration and misbranding of boric acid. U. S. v. Charles Crompton & Sons, Inc. Plea of nolo contendere. Fine, $10. (F. & D. no. 33800. Sample nos. 46983-A, 58032-A.)

This case was based on a shipment of boric acid which was misbranded because of unwarranted antiseptic claims in the labeling and because the packages contained less than the declared weight.

On November 7, 1934, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Charles Crompton & Sons, Inc., Lynn, Mass., alleging shipment by said company in violation of the Food and Drugs Act, on or about July 14, 1933, from the State of Massachusetts into the State of Rhode Island, of a quantity of boric acid which was adulterated and misbranded. The article was labeled in part: "Crompton's Boric Acid Contents 3 Ozs. * * * Packed By Chas. Crompton & Sons, Inc. Lynn, Mass. * * * As an Antiseptic Wash or Douche Dissolve one tablespoonful in a pint of (warm) water."

The article was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, in that it was represented to be an antiseptic wash or douche when used as directed; whereas it was not an antiseptic wash or douche when used as directed.

Misbranding was alleged for the reason that the statements, "Contents 3 Ozs." and "As an Antiseptic Wash or Douche Dissolve one tablespoonful in a pint of (warm) water", borne on the label, were false and misleading, since the packages contained less than 3 ounces and since the article was not an antiseptic wash or douche when used as directed.

On December 10, 1934, a plea of nolo contendere was entered on behalf of the defendant company, and the court imposed a fine of $10.

M. L. Wilson, *Acting Secretary of Agriculture.*

24102. Misbranding of Herb-Nu Tonic. U. S. v. S-M-S Laboratories, Inc., Helen Schymanski, Edwin B. Becker, and (Dr.) Peter B. Schyman. Pleas of guilty. Fines, $50. (F. & D. no. 35823. Sample no. 56302-A.)

This case was based on an interstate shipment of a drug preparation which was misbranded because of unwarranted curative and therapeutic claims appearing in the labeling.

On December 14, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the S-M-S Laboratories, Inc., Chicago, Ill., and Helen Schymanski, Edwin B. Becker, and (Dr.) Peter B. Schyman, officers of the corporation, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about June 27, 1933, from the State of Illinois into the State of Louisiana of a quantity of Herb-Nu Tonic which was misbranded.

Analysis showed that the article consisted essentially of extracts of plant drugs including a laxative drug, glycerin, and water.

The article was alleged to be misbranded in that certain statements regarding its curative and therapeutic effects, appearing on the bottle labels and cartons, falsely and fraudulently represented that it was effective as a tonic; and effective as an "all 'round tonic," cleanser, purifier, regulator, neutralizer, nourisher, and eliminator; effective to restore and retain health; effective to insure activity, enjoyment of life, vigor, and vim; effective as a preventative, treatment, remedy, and cure for a great many different ailments; effective to cure disease; effective as a remedy "of God and Nature"; effective as a remedy for sick people, young or old, middle-aged and elderly; effective to regulate, invigorate, purify, strengthen, and heal; effective as a treatment remedy, and cure for ailments of the stomach, kidney, liver, and gall bladder; effective as a hepatic and blood alterative; effective to insure beneficial tonic actions; effective to keep the stomach, liver, and bowels clean and working properly, and to prevent almost every ailment known; effective to prevent poor elimination, constipation, bad blood, secondary body poisons, acids, catarrhs, "Flems", and mucus; rheumatism, neuritis, chills, all sufferings and ailments; trouble in the eyes, stomach, liver, bowels, arms, legs, heart, brain or any other organ or part.

On December 20, 1934, the defendants entered pleas of guilty and the court imposed fines in the total amount of $50.

M. L. Wilson, *Acting Secretary of Agriculture*

24103. Misbranding of Granny's Cough Syrup Mentholated. U. S. v. 69 Bottles and 63 Bottles of Granny's Cough Syrup Mentholated. Default decrees of condemnation and destruction. (F. & D. nos. 34110, 34189. Sample nos. 16521–B, 16532–B.)

These cases involved interstate shipments of a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling and because it was not compounded of the ingredients which it purported to contain, and was found to contain a smaller proportion of chloroform than declared on the label.

On October 18 and October 25, 1934, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 132 bottles of Granny's Cough Syrup Mentholated, in part at West New York, N. J., and in part at Woodcliff, N. J., alleging that the article had been shipped in interstate commerce on or about November 9 and November 10, 1933, by Thompson Laboratories, Inc., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Granny's Cough Syrup, Mentholated * * * each fl. oz. contains chloroform about 4 min." A portion of the article was further labeled: "Simsarian Pharmacy * * * West New York, N. J." The remainder was further labeled: "The Alps Pharmacy * * * Woodcliff, New Jersey."

Analysis showed that the article consisted essentially of extracts of plant drugs, potassium bromide, an ammonium compound, a chloride, a small proportion of a sulphate, chloroform (0.5 minim per fluid ounce), menthol, sugar, and water.

The article was alleged to be misbranded in that the statement on the carton label, "Compound Syrup of Flaxseed Rock Candy and Licorice Mentholated", was false and misleading, since it was not a compound syrup of flaxseed, rock candy, and licorice mentholated; in that the statement on the carton and bottle labels, "Each fl. oz. contains chloroform about 4 min.", was false and misleading, since it contained less chloroform than so stated; in that it failed to bear on the label a statement of the quantity or proportion of chloroform contained therein, since the declaration on the bottle label was inconspicuous and incorrect, and the declaration on the carton was incorrect; and in that the following statements appearing in the labeling regarding the curative or therapeutic effects of the article were false and fraudulent: (Bottle) "Directions for children, one teaspoonful every two or three hours. For adults, one dessert spoonful every two or three hours"; (carton) "For Coughs, * * * and Bronchitis. * * * Directions: For Children one teaspoonful every 2 or 3 hours. For adults one tablespoonful every 2 or 3 hours. * * * Cough Remedy * * * a sedative in affections of the throat, relieving recent and obstinate coughs by promoting expectoration."

On January 28, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24104. Adulteration and misbranding of hydrogen peroxide and Sweet's Kur-A-Kol Tablets; and misbranding of Sweet's Certified Comfrey Liniment, camphorated oil, and Sweet's Kamforina Salve. U. S. v. 19 Bottles of Hydrogen Peroxide, et al. Default decree of condemnation and destruction. (F. & D. nos. 34195 to 34199, incl. Sample nos. 16933–B to 16937–B, incl.)

This case involved drug products which were misbranded because of unwarranted curative and therapeutic claims in the labeling. The Kur-A-Kol Tablets and Kamforina Salve were further misbranded, since the former were represented to contain acetanilid, whereas they contained no acetanilid, and the designation of the latter indicated that it was a camphor salve; whereas it contained physiologically active ingredients other than camphor. The hydrogen peroxide was adulterated, since it fell below the pharmacopoeial standard and the Kur-A-Kol Tablets were also adulterated, since the article fell below its own professed standard.

On November 2, 1934, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nineteen 4-ounce bottles of hydrogen peroxide, 11 packages of Sweet's Kur-A-Kol Tablets, 9 bottles of Sweet's Certified Comfrey Liniment, 22 bottles of camphorated oil, and 10 boxes of Sweet's Kamforina Salve at Utica, N. Y., alleging that the articles had been shipped in interstate commerce on or about May 2, 1934, by the Sweet Manufacturing Co., Inc., from Pittsburgh, Pa., and charging adultera-

tion and misbranding of the hydrogen peroxide and Kur-A-Kol Tablets and misbranding of the remaining products, in violation of the Food and Drugs Act as amended.

Analyses showed that the hydrogen peroxide contained 0.64 percent of hydrogen peroxide and that 3.7 cubic centimeters of tenth normal sodium hydroxide are required to neutralize the free acid in 25 cubic centimeters of the article; that the Kur-A-Kol Tablets consisted essentially of quinine sulphate, calcium carbonate, and starch; that the Certified Comfrey Liniment consisted essentially of alcohol (71.5 percent), water, acetone, ammonia, capsicum and volatile oils including methyl salicylate, oil of clove, camphor, and oil of sassafras; that the camphorated oil consisted essentially of camphor (18.3 percent) and cottonseed oil; and that the Kamforina Salve consisted essentially of camphor, capsicum, and volatile oils including oil of sassafras, incorporated in petrolatum.

The hydrogen peroxide was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, and differed in strength, quality, and purity from the standard laid down in the said pharmacopoeia and its own standard of strength, quality, and purity was not stated on the label. Adulteration of the Kur-A-Kol Tablets was alleged for the reason that the strength of the article fell below the professed standard or quality under which it was sold, namely, "Each tablet contains 1 grain Acetanilid", since the article contained no acetanilid.

Misbranding of the hydrogen peroxide was alleged for the reason that the statement, "Hydrogen Peroxide Full Strength U. S. P.", was false and misleading. Misbranding of the Kur-A-Kol Tablets was alleged for the reason that the statement, "Each tablet contains 1 grain Acetanilid", was false and misleading. Misbranding of the Kamforina Salve was alleged for the reason that the designation "Kamforina Salve" was false and misleading, since the article contained physiologically active ingredients other than camphor. Misbranding was alleged with respect to all products for the reason that the following statements appearing in the labeling were statements regarding the curative or therapeutic effects of the articles, and were false and fraudulent: (Hydrogen peroxide, bottle) "For Sore Throat For Wounds, Ulcers, etc. * * * Leucorrhea, Vaginitis, etc. Use a teacupful to a quart of warm water, as a douche each night. For Pimples"; (Kur-A-Kol, package) "Kur-A-Kol * * * Grippe, Catarrh and Similar Afflictions * * * It is also well, to take a hot foot bath and a dose of Sweet's Certified Blood Tea"; (Certified Comfrey Liniment, carton) "Muscular Rheumatism * * * Backache, Stiffness * * * Lumbago, Catarrh, Sore Throat, Swellings, Etc. [and similar statements in foreign languages]"; (camphorated oil, bottle) "Used * * * in * * * Rheumatic affection of the Joints and for chapped or sore nipples"; (carton) "Used * * * in * * * Rheumatic affection of the Joints, Etc."; (Kamforina Salve, carton and jar) "For Muscular Rheumatism * * * Sore Throat, Stiffness * * * Etc. [and similar statements in a foreign language]."

On December 27, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the products be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24105. Adulteration and misbranding of chloroform. U. S. v. 17 Bottles of Chloroform. Default decree of condemnation and destruction. (F. & D. no. 34224. Sample no. 20605–B.)

This case involved a shipment of chloroform which failed to conform to the test laid down in the United States Pharmacopoeia for substances decomposable by sulphuric acid.

On October 31, 1934, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 17 quarter-pound bottles of chloroform at Buffalo, N. Y., consigned by the J. T. Baker Chemical Co., Phillipsburg, N. J., alleging that the article had been shipped in interstate commerce on or about September 19, 1934, from Phillipsburg, N. J., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Chloroform USP."

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength, quality, and purity as determined by the test laid down in the said pharmacopoeia, and its own standard was not stated upon the label.

Misbranding was alleged for the reason that the statement on the label "Chloroform USP", was false and misleading.

On November 28, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24106. Misbranding of Fink's Magic Oil. U. S. v. 68 Bottles of Fink's Magic Oil. Default decree of condemnation and destruction. (F. & D. no. 34287. Sample no. 16607–B.)

This case involved a drug preparation which was misbranded because of unwarranted curative and therapeutic claims appearing in the labeling. The article was further misbranded since it was represented to be an oil, whereas it was not an oil.

On November 7, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 68 bottles of Fink's Magic Oil at Newburgh, N. Y., alleging that the article had been shipped in interstate commerce on or about July 27, 1930, by H. G. G. Fink's laboratories, from Cincinnati, Ohio, and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of water, alcohol (48.1 percent), and small amounts of essential oils including oil of cassia, methyl salicylate, and oil of sassafras.

The article was alleged to be misbranded in that the statements, (bottle and carton) "Fink's Magic Oil" and (circular) "Fink's Magic Oil * * * Fink's Magic Oil Must be Diluted One Part Oil to Ten Parts Water", were false and misleading since the article was not an oil. Misbranding was alleged for the further reason that the labeling contained false and fraudulent claims regarding its effectiveness in the treatment of rheumatism, toothache, earache, sore throat, pains and aches, cramps, cholera morbus, sore throat, diarrhoea, chills and fever, cholera, colic, lameness or pain in back, limbs or joints, coughs and colds, poisons, frozen parts, deafness, corns or warts, chilblains, bunions and frozen feet, tired, aching sore feet, mumps, catarrh in the head, asthma, eczema, water tetter, acne, etc., boils, pimples, ring-worm, cuts, open sores, bronchitis, and griping pains.

On December 13, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24107. Misbranding of extract of witch hazel. U. S. v. 10 Dozen Bottles of Extract of Witch Hazel. Default decree of condemnation and destruction. (F. & D. no. 34374. Sample no. 21054–B.)

This case involved a shipment of extract of witch hazel which was labeled with unwarranted curative and therapeutic claims.

On November 14, 1934, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 dozen bottles of extract of witch hazel at Scranton, Pa., alleging that the article had been shipped in interstate commerce, on or about October 22, 1934, by the Lander Co., from Binghamton, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of volatile witch hazel constituents, alcohol, and water.

The article was alleged to be misbranded in that the following statements on the label regarding its curative or therapeutic effects were false and fraudulent: "An effective local remedy indicated in all cases of rheumatism * * * piles, hemorrhages, etc."

On February 18, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24108. Adulteration and misbranding of tincture opium camphorated (paregoric). U. S. v. 394 One-Pint Bottles of Tincture Opium Camphorated (Paregoric). Default decree of condemnation and destruction. (F. & D. no. 34382. Sample no. 4537–B.)

This case involved an interstate shipment of tincture opium camphorated which was represented to conform to the requirements of the United States Pharmacopoeia, but which contained a smaller proportion of opium than the pharmacopeoial product.

On or about November 16, 1934, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 394 pint bottles of tincture of opium camphorated at Perry Point, Md., alleging that the article had been shipped in interstate commerce on or about October 23, 1934, by B. R. Elk & Co., Inc., from Garfield, N. J., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Tincture Opium Camphorated (Paregoric) U. S. P. X. * * * Opium 0.4%."

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength, quality, and purity as determined by the test laid down in the said pharmacopoeia, and its own standard was not stated on the label.

Misbranding was alleged for the reason that the statement on the label, "Tincture Opium Camphorated (Paregoric) U. S. P. X. * * * 0.4%", was false and misleading.

On January 8, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24109. Misbranding of Terraline Plain and Terraline Creosote. U. S. v. 52 Bottles of Terraline Plain and 32 Bottles of Terraline Creosote. Default decree of condemnation and destruction. (F. & D. nos. 34420, 34421. Sample nos. 13469–B, 13470–B.)

This case involved a product, known as Terraline Plain, which consisted essentially of a partially purified fluorescent petroleum oil; and a product, known as Terraline Creosote, which consisted of a partially purified fluorescent petroleum oil with creosote. The articles were misbranded because of unwarranted curative and therapeutic claims in the labeling, and because they were labeled to convey the impression that the former consisted entirely, and the latter principally, of thoroughly purified liquid petrolatum.

On November 19, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 52 bottles of Terraline Plain and 32 bottles of Terraline Creosote at St. Louis, Mo., alleging that the articles had been shipped in interstate commerce on or about December 29, 1933, by the Kells Co., from Newburgh, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The articles were labeled in part: "Terraline * * * The Hillside Chemical Company Newburgh, N. Y., U. S. A."

The articles were alleged to be misbranded in that the statement on the labels, "Petroleum Purificatum", was false and misleading, since they did not consist of purified liquid petrolatum. Misbranding was alleged for the further reason that the following statements appearing on the labels were statements regarding the curative and therapeutic effects of the articles and were false and fraudulent: ("Terraline Plain") "Terraline Plain is prescribed for * * * autointoxication, with excellent results. Terraline Plain is a desirable vehicle for medicaments in the treatment of bronchial and pulmonary affections"; ("Terraline Creosote") "Terraline is an excellent base for the treatment of pulmonary disorders with creosote—bronchial catarrh * * * and cough—a * * * healing influence on the bronchial mucus membrane."

On December 22, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the products be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24110. Adulteration and misbranding of Watkins Veterinary Balm. U. S. v. 178 Cans of Watkins Veterinary Balm. Default decree of condemnation and destruction. (F. & D. no. 34438. Sample no. 1543–B.)

This case involved a drug preparation, the labels of which contained unwarranted curative, therapeutic, antiseptic, and germicidal claims.

On November 30, 1934, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 178 cans of Watkins Veterinary Balm at Oakland, Calif., alleging that the article had been shipped in interstate commerce on or about July 10, 1934, by the J. R. Watkins Co., from Winona, Minn., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of petrolatum containing a small amount of methyl salicylate and sodium chloride. Bacteriological tests showed that the article was not an antiseptic or a germicide.

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold, namely, "Germicidal Salve * * * Antiseptic dressing."

Misbranding was alleged for the reason that the following statements on the label were false and misleading: "Germicidal Salve * * * It contains a powerful antiseptic which is more highly effective in killing than carbolic acid (phenol) * * * an antiseptic dressing."

Misbranding was alleged for the further reason that the following statements on the label were statements regarding the curative or therapeutic effects of the article and were false and fraudulent: "Inflammation, and congestion of the udders of cows, sows and ewes. * * * for the relief of certain simple disorders peculiar to the udders of cows, sows and ewes, such as hardness, inflammation and congestion. * * * It is helpful in preventing and checking Cow Pox * * * It is valuable for open cuts, galls and sore shoulders in horses. * * * for * * * sores * * * For Cow Pox: Apply to teats before milking. Repeat until healed. * * * In extreme cases * * * Apply Veterinary Balm over affected parts * * * Repeat several times daily according to the seriousness of the trouble. * * * Sores * * * In serious cases * * * Repeat several times daily according to the seriousness of the trouble."

On January 30, 1935, no claimant having appeared, judgment of condemnation was entered, and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24111. Adulteration and misbranding of chloroform. U. S. v. 258 Bottles, et al., of Chloroform. Default decree of condemnation and forfeiture. (F. & D. no. 34450. Sample nos. 21107–B, 21122–B, 21124–B, 21126–B, 21127–B.)

This case involved quantities of chloroform which failed to conform to the pharmacopoeial tests for substances decomposable by sulphuric acid.

On December 4, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two hundred and fifty-eight 1-pound bottles, nine 4-ounce bottles, and three 25-pound tins of chloroform at New York, N. Y., alleging that the article had been shipped in bulk on or about December 30, 1933, by McKesson & Robbins, Inc., from Bridgeport, Conn., and subsequently transferred to bottles and tin containers and labeled by the consignee, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Chloroform * * * U. S. P."

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength, quality, and purity as determined by the test laid down in the said pharmacopoeia, and its own standard was not stated on the label.

Misbranding was alleged for the reason that the statement on the label, "Chloroform * * * U. S. P.", was false and misleading.

On December 31, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24112. Misbranding of Rosenberg's Improved Great Century Oil. U. S. v. 53 Bottles of Rosenberg's Improved Great Century Oil. Default decree of condemnation and destruction. (F. & D. no. 34468. Sample no. 4554–B.)

This case involved a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling.

On December 4, 1934, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 53 bottles of Rosenberg's Improved Great Century Oil at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about October 23, 1934, by the Great Century Medicine Co., from Lititz, Pa., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of methyl salicylate, hydrocarbons similar to gasoline, and a red-coloring material.

The article was alleged to be misbranded in that the following statements in the labeling were statements regarding the curative or therapeutic effects of the article and were false and fraudulent: (Carton) "For the relief of Rheumatic Pains, * * * Neuralgia, Sore Throat, Lame Back, * * * Horse Colic. Directions for External Use Bathe well with warm water and then rub well with the oil until a burning sensation is produced. * * * Directions for Internal Use For Cramps, 6 drops on a teaspoonful of sugar. For Horse Colic, tablespoonful on sugar"; (bottle) "Relieves Neuralgia, Rheumatic pains, Headache etc. Directions Apply with hand and rub affected parts until burning sensation has been produced. Do not apply to open flesh or bandage; Before applying remedy, bathe the sore part in warm water. For sore throat, bathe the throat and chest with the oil upon retiring, then put a damp bandage around throat, for internal use; 6 drops in sugar; for horse colic, a tablespoonful in sugar; for corns, 1 drop night and morning."

On January 15, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24113. Adulteration and misbranding of Edgerton's Medicated Salt Brick. U. S. v. 18 Cases of Edgerton's Medicated Salt Brick. Default decree of condemnation and destruction. (F. & D. no. 34550. Sample no. 6079-B.)

This case involved a drug preparation, the labels of which contained unwarranted curative and therapeutic claims. Analysis showed that the article did not contain certain ingredients declared on the label.

On December 13, 1934, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 cases of Edgerton's Medicated Salt Brick at Jacksonville, Fla., alleging that the article had been shipped in interstate commerce on or about October 16, 1934, by the Edgerton Manufacturing Co., from Atlanta, Ga., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of sodium chloride, with small amounts of sulphur, calcium, magnesium, and iron compounds including sulphates and bitter plant material. It did not contain saltpeter, copperas, and nux vomica.

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold, namely, "This preparation is a prescription containing * * * Salt Petre, Copperas, Nux Vomica."

Misbranding was alleged for the reason that the statement, "This preparation is a prescription containing * * * Salt Petre, Copperas, Nux Vomica", was false and misleading. Misbranding was alleged for the further reason that the following statements on the carton were statements regarding the curative or therapeutic effects of the article and were false and fraudulent: "Keep Your Stock from Getting Sick * * * Healthy Live Stock Require Less Feed * * * If this improved medicated Salt Brick is kept in the feed trough the animals will correct their own ailments, and keep in a healthy condition. * * * It aids digestion, helps to destroy all worms, increases the appetite, keeps the bowels open and tones up the system. * * * A lack of sufficient mineral salt elements in the daily feed often causes a break-down in the system, which means a waste of food and loss of time. These periods can be avoided by keeping Edgerton's Improved Medicated Salt Brick before your animals, letting them dose themselves as they require it. * * * the best known tonic for Live Stock * * * Use Three Bricks and your Poor Horses will be freed from Grubs."

On February 18, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24114. Adulteration and misbranding of fluidextract of aconite, tincture of aconite, fluidextract of digitalis, and fluidextract of squill compound. U. S. v. 5 Bottles of Fluidextract Aconite, et al. Default decrees of condemnation and destruction. (F. & D. nos. 34556 to 34559, incl. Sample nos. 22447-B, 22449-B, 22451-B, 22454-B.)

These cases were based on shipments of fluidextract of aconite, a product recognized in the National Formulary, and of tincture of aconite, which was represented to be of pharmacopoeial standard, both of which products had a

potency of less than three tenths of that required by the authority in which described; of a lot of fluidextract of digitalis, a product recognized in the National Formulary, and which was practically inert; and a lot of fluidextract of squill compound which when tested for the physiological activity of its squill content, was found to be practically devoid of activity. The fluidextract of aconite and fluidextract of digitalis, because of their low potency, would not produce certain curative and therapeutic effects claimed on the labels, in the dosages recommended.

On December 17, 1934, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 16 bottles of fluidextract of aconite, 13 bottles of tincture of aconite, 8 bottles of fluidextract of digitalis, and 19 bottles of fluidextract of squill compound at New Orleans, La., alleging that the articles had been shipped in interstate commerce on or about March 27, 28, and 30, 1934, by the Southwestern Drug Corporation from Houston, Tex., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

The articles were alleged to be adulterated in the following respects: The fluidextract of aconite and the fluidextract of digitalis were sold under names recognized in the National Formulary, and differed from the standard of strength as determined by the tests laid down therein, and their own standard of strength was not stated on the container; the tincture of aconite was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength as determined by the test laid down therein, and its own standard of strength was not declared on the container; the strength of the fluidextract of squill compound fell below the standard or quality under which it was sold, namely, "Fluid Extract Squill Compound * * * Standard of Strength—One Pint represents Squill * * * 8 troy ounces."

Misbranding of the tincture of aconite, fluidextract of digitalis, and fluidextract of squill compound was alleged for the reason that the statements, "Tinct. Aconite * * * U. S. P.", "Fluid * * * Extract Digitalis * * * Standard—1 Cc. representing 1 gram of the drug", "Fluid Extract Squill Compound * * * Standard of Strength—One Pint represents Squill * * * 8 troy ounces", were false and misleading. Misbranding of the fluidextract of aconite and fluidextract of digitalis was alleged for the reason that the following statements regarding the curative or therapeutic effects of the articles, (fluidextract of aconite) "Properties A powerful nerve and arterial sedative; anti-pyretic, lowering temperature, reducing pulse * * * Dose of the Fluid Extract—½ to 2 minims (0.03 to 0.12 Cc.)", (fluidextract of digitalis) "Properties—Cardiac Tonic. Used in dropsy depending directly upon diseases of the heart. Useful in chronic bronchitis with profuse secretion, lessening pulmonary congestion and secretion. Uterine hemorrhage may be controlled by digitalis. * * * Dose of the Fluid Extract—½ to 2 minims (0.03 to 0.12 Cc.)", were false and fraudulent, since the articles in the dosages stated on the labels would not produce the effects claimed.

On January 8 and 11, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24115. Adulteration of epinephrine U. S. P. 1-1000. U. S. v. Nine 1-Ounce Vials of Epinephrine U. S. P. 1-1000. Default decree of condemnation and destruction. (F. & D. no. 34567. Sample nos. 17948-B, 24211-B.)

This case involved a drug preparation labeled "Epinephrin U. S. P. 1–1000." Analysis showed that the article was inert when tested biologically by the method prescribed in the United States Pharmacopoeia for solution of epinephrine hydrochloride.

On December 17, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nine 1-ounce vials of epinephrine U. S. P. 1–1000 at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about November 12, 1934, by the Wilson Laboratories, from Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold, namely, "Epinephrin U. S. P. 1–1000."

On January 25, 1935, no claimant appearing, judgment of condemnation was entered and it was ordered that the product be destroyed, leave being granted to the Wilson Laboratories to take two bottles as samples.

M. L. Wilson, *Acting Secretary of Agriculture.*

24116. Misbranding of Red Cross Pills. U. S. v. 80 Boxes and 57 Boxes of Red Cross Pills. Default decrees of condemnation and destruction. (F. & D. nos. 34673, 34674. Sample nos. 25932–B, 25933–B.)

These cases involved interstate shipments of a drug preparation which was misbranded because of unwarranted curative and therapeutic claims on the labels.

On or about January 3, 1935, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 137 boxes of Red Cross Pills at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about September 15, November 2, and November 28, 1934, by the Red Cross Chemical Co., Inc., from Fall River, Mass., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of ferrous carbonate, compounds of arsenic and manganese, potassium sulphate, and extracts of plant materials including strychnine and aloin.

The article was alleged to be misbranded in that the following statements on the bottle label were statements regarding the curative or therapeutic effects of the article and were false and fraudulent: (Bottle) "Will Make Your Cheeks Red * * * Recommended in Anaemia, Irregular and Painful Menstruation, Kidney and Bladder Troubles, Indigestion * * * and all impurities of the Blood. [in foreign language] Recommended particularly in the painful cases of irregular menses; they enrich the blood and cure the constipation, the liver and the kidneys."

On January 22, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24117. Adulteration and misbranding of compound Epsom salt tablets. U. S. v. 284 Bottles of Compound Epsom Salt Tablets. Default decree of condemnation and destruction. (F. & D. no. 34675. Sample no. 21146–B.)

This case involved a product labeled to convey the impression that it was essentially a preparation of Epsom salt. Analysis showed that it contained phenolphthalein and a laxative plant drug which would produce its principal physiological effects, the Epsom salt present being relatively unimportant.

On December 28, 1934, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 284 bottles of compound Epsom salt tablets at Binghamton, N. Y., alleging that the article had been shipped in interstate commerce on or about July 24, 1934, by the Marlo Products Co., from Cleveland, Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act.

Analysis showed that the tablets consisted essentially of phenolphthalein (0.6 grain per tablet), Epsom salt (2.37 grains per tablet), and a laxative plant drug, and were coated with sugar and calcium carbonate.

The article was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, namely, "Compound Epsom salt tablets."

Misbranding was alleged for the reason that the statement on the label, "Compound Epsom salt tablets", was false and misleading, since the amount of Epsom salt contained in the article was so small that it would have no detectable physiological effect.

On February 28, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24118. Misbranding of Mastin's Vitamon Tablets. U. S. v. 18 Dozen Packages of Mastin's Vitamon Tablets. Default decree of condemnation and destruction. (F. & D. no. 35041. Sample no. 21172–B.)

This case involved a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling.

On January 31, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 dozen packages of Mastin's Vitamon Tablets at Newburgh, N. Y., alleging that the article had been shipped in interstate commerce on or about October 22 and November 6, 1934, by James F. Stras, from La Crosse, Wis., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Mastin's Vitamon Tablets * * * The Vitamon Corporation New York, U. S. A. Distributed by Mastin & Company New York."

Analysis showed that the article consisted essentially of yeast, calcium glycerophosphate (1.7 grains per tablet), calcium carbonate (1.7 grains per tablet), a small proportion of an iron compound, nux vomica extract (0.2 grain per tablet), and an extract of a laxative plant drug.

The article was alleged to be misbranded in that the following statements in the labeling were statements regarding the curative or therapeutic effects of the article, and were false and fraudulent: (Bottle label) "* * * such valuable health-building elements as Calcium Glycerophosphate, Nux Vomica and Peptonate of Iron. * * * of value in helping to * * * aid digestion, correct constipation, clear the skin, increase energy and, * * * to assist in putting on weight in weakened, run-down conditions due to malnutrition"; (carton) "* * * of value * * * to * * * aid digestion. correct constipation, clear the skin, increase energy and * * * assist in putting on weight in weakened, run-down conditions due to malnutrition. * * * essential to good health. * * * such valuable health-building elements as Calcium Glycerophosphate, Nux Vomica and Peptonate of Iron"; (circular) "Health-Giving Vitamines * * * The increasing of the Vitamine supply to weakened systems is recognized by medical authorities as a valuable aid to enrich the blood, strengthen the nerves, * * * aid digestion, correct constipation, clear the skin, increase weight and energy and act as a health-giving tonic in generally weakened run-down conditions. A Valuable aid in cases of lack of energy, nervousness, certain forms of mal-nutrition, emaciation, and simple anaemia. Also indicated in the treatment of boils, carbuncles, certain skin troubles, * * * indigestion and in * * * many debilitated conditions of the system. * * * being absolutely essential to good health and proper physical development. * * * In each tablet are combined the three health-building Vitamines * * * Calcium Glycerophosphate used in the manufacture of Mastin's Vitamon contains phosphorus which is said to be particularly valuable for building up nerve force. * * * for its red blood-making properties and general therapeutic efficacy. In combination with the three vitamines the presence of these and other elements help to make Mastin's Vitamon especially well adapted to the use of those engaged in either physical or mental occupations requiring great nervous energy. You will find Mastin's Vitamon tablets easy and economical to take. How To Tell If Your System Lacks Vitamines The lack of Vitamines may be shown by a more or less thin and emaciated appearance, under-development, certain skin eruptions, poor complexion, constipation, indigestion, lack of energy and ambition, by signs which indicate weakness, certain forms of anaemia, nervous deficiency and mal-nutrition, loss of appetite, physical breakdown or a general run-down condition. Both men and women are subject to the conditions brought on by this deficiency, but by eating plenty of those foods known to be rich in vitamines or by taking a preparation similarly rich in vitamines, these necessary elements to good health may be supplied. It has been observed that symptoms indicating a lack of vitamines are less frequent among different people at various seasons of the year. This is probably due to their getting vitamine-containing foods at certain periods more than at others, but the fact that they may fail to get a sufficient quantity for the needs of the system has an effect in lowering the vitality and power of resistance to disease. Therefore, Mastin's Vitamon is especially recommended as being a valuable health and tonic agent, which may be taken at any time or in any climate at the first sign of a weakened or 'run-down' condition. * * * health-giving ingredients, as they are prepared and combined in Mastin's Vitamon. Thus is made available to the public a means for overcoming to a considerable degree the deficiency in various foods, which has probably been the source of many serious functional disturbances resulting often in nervous or physical breakdown. * * * Why you need Vitamines Unless sufficient Vitamines are regularly obtained from the food we eat or by the aid of a preparation containing Vitamines to keep the system properly nourished the supply in the body tends to

be depleted. This constant strain steadily makes its inroads upon the health and strength and often leads to complete physical exhaustion and nervous collapse. * * * While surprising results are often obtained from a short course of Mastin's Vitamon, its action is not that of a temporary stimulant, but a nutritive, health-building tonic of unusual value. Therefore to derive the most beneficial effects for thinness or in weakened, run-down conditions [similar statements in foreign languages]."

On February 25, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24119. Misbranding of Amita. U. S. v. 70 Retail Boxes of Amita. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 33293. Sample no. 10461–B.)

This case involved an interstate shipment of a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling, and because it was represented to be harmless, analysis having shown that it contained no ingredients capable of producing the curative effects claimed, and that it did contain ingredients that might be harmful, especially if taken according to directions.

On or about August 28, 1934, the United States attorney for the District of Delaware, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 70 retail boxes of Amita at Wilmington, Del., alleging that the article had been shipped in interstate commerce on or about March 14, 1934, by the Amita Laboratories, from Philadelphia, Pa., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted of tablets containing 2.6 grains of amidopyrine each.

The article was alleged to be misbranded in that the statement in the circular accompanying the article, "Harmless", was false and misleading, particularly so in view of the directions on the metal container, "Take two tablets * * * and then one tablet every hour for three hours." Misbranding was alleged for the further reason that the following statements regarding the curative and therapeutic effects of the article were false and fraudulent: (Circular) "* * * for quick, safe relief of Dysmenorrhea (Painful Menstruation) because it is non-habit forming, harmless and efficient. Amita works swiftly and surely in the alleviation of the pains and depression usually accompanying menstruation. At the first sign of discomfort, use Amita— * * * You will quickly sense the soothing effects of this treatment. Should your condition fail to respond consult your physician immediately"; (metal container) "At the first sign of discomfort * * *."

On December 7, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24120. Alleged conspiracy to violate the Food and Drugs Act. U. S. v. Sidney Cohen, Edward Gordon, Benjamin Gordon, Keene Chemical Co., and Harold Surgical Corporation. Tried to the court. Indictment dismissed. (Consp. no. 101.)

This case was based on an alleged conspiracy to violate the Federal Food and Drugs Act in connection with various transactions in adulterated and misbranded ether.

On July 12, 1932, the grand jurors of the United States presented in the district court for the District of New Jersey, an indictment against Sidney Cohen, Edward Gordon, Benjamin Gordon, individuals, and the Keene Chemical Co., and Harold Surgical Corporation, corporations organized under the laws of the State of New York. The indictment alleged that during March 1926, defendant Sidney Cohen placed in storage at Bayway, N. J., a large quantity of ether labeled in part, "Ether * * * For Anaesthesia", which had been purchased by the said Sidney Cohen under the name of the Pacific Chemical Co., from the United States Government, and which consisted of surplus Army stock, which had been sold to said Sidney Cohen under the understanding and agreement that it would not be used or sold for other than technical purposes, and particularly not to be used, sold, or offered for sale for the purpose of anaesthesia; that the said ether was adulterated within the meaning of the Food and Drugs Act in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength, quality, and

purity as determined by the tests laid down in the said pharmacopoeia and its own standard was not stated on the labels; and was misbranded in that the statements on the containers, "The best that can be made for anaesthesia. * * * It is superior in vital respects to the ether of the U. S. P.", were false and misleading.

The indictment further alleged that during the period between March 1, 1926, and October 1, 1931, and continuously during that period the defendants, together with others unknown to the grand jurors, knowingly, willfully, unlawfully, and feloniously conspired, combined, confederated, and agreed together to commit an offense against the United States, i. e., to ship in interstate commerce certain cases of the said ether, adulterated and misbranded in violation of the Food and Drugs Act; that in pursuance of the alleged conspiracy the defendants, by advertisement and other means offered the said ether to dealers in drug and surgical supplies, hospitals, and the medical and surgical profession generally, as ether of the United States Phamacopoeia standard, which could be safely used for the purpose of anaesthesia, knowing that it was of inferior quality and would be used for the purpose of anaesthesia; and that in pursuance of and to effect the objects of the conspiracy the defendants shipped in interstate commerce, between the dates of July 6, 1929, and September 6, 1929, various quantities of the said ether from the State of New Jersey into the States of Georgia, Minnesota, and Pennsylvania, and committed other overt acts.

On June 13, 1934, the defendants having entered pleas of not guilty, the case came on for trial before the court. Evidence for the Government was introduced, at the conclusion of which counsel for the defense moved to dismiss the indictment as to all defendants. On June 21, 1934, the motion having been argued by counsel for the Government and the defense, the indictment was ordered dismissed as to all defendants, no opinion being rendered by the court.

M. L. WILSON, *Acting Secretary of Agriculture.*

24121. Conspiracy to violate the Food and Drugs Act. U. S. v. Leo B. Dreyfoos (alias Leo B. Dreyfus), Massey C. Griffin, The Mobile Drug Co., et al. Pleas of guilty. Fines, $2,125. (Consp. no. 104.)

Indictment was based on a conspiracy to violate the laws of the United States, in the shipment in interstate commerce, receipt of such shipments, and other transactions, involving fluidextract of ginger which was adulterated and misbranded in violation of the Food and Drugs Act.

On September 24, 1930, the grand jurors of the United States returned in the district court for the Southern District of Alabama, an indictment against Leo B. Dreyfoos, alias Leo B. Dreyfus, Massey C. Griffin, the Mobile Drug Co., and others, charging that during the period between November 1, 1929, and July 31, 1930, the said defendants unlawfully, knowingly, willfully, and feloniously conspired, combined, confederated, and agreed together to commit certain offenses against the laws of the United States, the exact date of the beginning of the conspiracy being unknown, but that all had entered therein on November 11, 1929, said offenses consisting in unlawfully shipping from Cincinnati, Ohio, to Mobile, Ala., and receiving at Mobile, Ala., and delivering in the original packages, certain quantities of an adulterated and misbranded drug labeled, "Q. C. Brand Fluid Extract of Ginger, U. S. P., Alcohol by Vol. 83%, Contents 2 Ozs. net. For Cramps, Diarrhoea, Flatulent Colic and externally for Toothache."

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength, quality, and purity as determined by the test laid down in the said pharmacopoeia. It was also alleged to be misbranded in that the label bore statements which were false and misleading; in that it was an imitation of and was offered for sale under the name of another article, fluidextract of ginger as recognized in the pharmacopoeia; and in that the labels bore statements regarding its curative and therapeutic effects which were false and fraudulent.

The indictment further charged that certain of the defendants during the existence of the said conspiracy and to effect the objects thereof, committed the following overt acts: On November 15, 1929, the officers and directors of the Mobile Drug Co., received in the name of the said company, and had in their possession, 288 bottles of a liquid purporting to be fluidextract of ginger, received by freight from the Queen City Distributing Co., Cincinnati, Ohio:

that on February 25, 1930, the Mobile Drug Co., and officers thereof, received by freight from the Queen City Distributing Co., Cincinnati, Ohio, 6 gross bottles of the said liquid; that on February 20, 1930, Leo B. Dreyfoos (alias Leo B. Dreyfus) trading with another as the Queen City Distributing Co., shipped by freight from Cincinnati, Ohio, to the Mobile Drug Co., Mobile, Ala., 6 gross bottles of the said liquid; that on February 7, 1930, the officers and directors of the Mobile Drug Co., received in the name of the said company, by freight from the Queen City Distributing Co., Cincinnati, Ohio, 7 gross bottles of the said liquid; that on February 20, 1930, Massey C. Griffin, acting as agent for the Mobile Drug Co., took an order for a quantity of fluid-extract of ginger; that on February 11, 1930, the Mobile Drug Co., sold a quantity of a liquid purporting to be fluidextract of ginger: and on March 14, 1930, wrote a letter concerning a sale of a quantity of fluidextract of ginger.

On April 27, 1931, Leo B. Dreyfoos (Leo B. Dreyfus) entered a plea of guilty and was fined $25. On March 31, 1932, pleas of guilty were entered by Massey C. Griffin and the Mobile Drug Co., and the court imposed fines of $100 and $2,000, respectively, against said defendants; and on the same date an order of nolle prosequi was entered as to the remaining defendants.

M. L. Wilson, *Acting Secretary of Agriculture.*

24122. Misbranding of Star Liquid Lime Sulphurous Compound. U. S. v. William Jesse Lindsey (Star Chemical Co.). Plea of guilty. Fine, $25. (F. & D. no. 30197. Sample no. 16642–A.)

This case was based on an interstate shipment of a drug preparation which was misbranded because of unwarranted curative and therapeutic claims in the labeling.

On July 17, 1934, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against William Jesse Lindsey, trading as the Star Chemical Co., Arlington, Tex., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about June 20, 1932, from the State of Texas into the State of Georgia, of a quantity of Star Liquid Lime Sulphurous Compound which was misbranded.

Analysis showed that the article was a lime-sulphur solution containing calcium thiosulphate (1.26 percent), calcium sulphate (0.04 percent), calcium polysulphide (22.13 percent), and water (76.57 percent).

The article was alleged to be misbranded in that certain statements on the bottle labels regarding its therapeutic and curative effects falsely and fraudulently represented that it was effective as a treatment, remedy, and cure for sore head. The information also charged violation of the Insecticide Act of 1910, reported in notice of judgment no. 1376 published under that act.

On December 5, 1934, the defendant entered a plea of guilty and the court imposed a fine of $25 as a penalty for violation of both acts.

M. L. Wilson, *Acting Secretary of Agriculture.*

24123. Misbranding of Rival Herb Tablets. U. S. v. George W. Slaughter (Rival Herb Co.). Plea of guilty. Fine, $100. (F. & D. no. 30249. Sample no. 4871–A.)

This case was based on an interstate shipment of a drug preparation, the labeling of which contained unwarranted curative and therapeutic claims.

On April 4, 1934, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court an information against George W. Slaughter, trading as the Rival Herb Co., Detroit, Mich., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about November 8, 1932, from the State of Michigan into the State of Illinois of a quantity of Rival Herb Tablets which were misbranded.

Analysis by this Department showed that the tablets contained extracts of plant drugs including aloe, podophyllum, and capsicum, and were coated with calcium carbonate and iron oxide.

The article was alleged to be misbranded in that certain statements, devices, and designs regarding its therapeutic and curative effects, appearing on the box labels, cartons, and in an accompanying circular, falsely and fraudulently represented that it was effective as a treatment, remedy, and cure for stomach, liver, kidney, and bowel ailments; effective to stimulate the liver and kidneys, to aid digestion, to tone the stomach, and to regulate the bowels; effective to

act upon the diseased liver and prompt its better action, to remove from the blood cerain toxic or poisonous principles and eliminate them from the system through the kidneys and intestinal tract, and to improve the digestive function and assist nature to thoroughly convert the food into tissue-forming substances; effective to fortify the individual's power of resistance to disease and to increase his immunity to the action of toxic bodies; effective to control and regulate the bodily functions, to restore to better health, and to prevent frequent attacks of biliousness, sick headache, dizziness or vertigo, rheumatism, backache, stiffness of the joints and muscles, deranged secretions and constipation and its attendant ills; effective to keep the sewerage system of the body in good working order; effective as a treatment for dyspepsia and a host of evils; effective as an absolutely reliable and dependable regulator; effective as a treatment for chronic diseases of the tissues, joints, kidneys, liver, skin, and other parts of the body; effective to prevent a spell of sickness; effective as a health insurance; and effective as a treatment, remedy, and cure for stomach trouble, rheumatism, underweight, piles, internal piles, dyspepsia, and liver trouble.

On September 24, 1934, the defendant entered a plea of guilty, and on November 6, 1934, a fine of $100 was imposed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24124. Misbranding of Microsan Mosene. U. S. v. Microsan Mosene Laboratories, Inc., and Mrs. Carrie S. Wright. Tried to the court and a jury. Verdict of guilty. Sentences suspended. Defendant Carrie S. Wright placed on probation for two years. (F. & D. no. 31357. Sample no. 24094–A.)

This case was based on an interstate shipment of a drug preparation, the labels of which bore unwarranted curative and therapeutic claims.

On April 3, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Microsan Mosene Laboratories, Inc., trading at Los Angeles, Calif., and Mrs. Carrie S. Wright, trading under the names of Corine Ricks and Corrine Ricks, president of the said corporation, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about May 4, 1933, from the State of California into the State of Missouri, of a quantity of Microsan Mosene which was misbranded.

Analysis by this Department showed that the article was an aqueous solution of drug extractives, a mercury salt, and glycerin.

The information charged that the article was misbranded in that certain statements, designs, and devices regarding the therapeutic and curative effects, appearing on the bottle labels, falsely and fraudulently represented that it was effective as a treatment for tuberculosis.

The defendants having entered pleas of not guilty, the case was tried to a jury on November 6 and November 7, 1934. A verdict of guilty was returned by the jury, and the court ordered that sentence be suspended for 2 years on condition that Corine Ricks (Mrs. Carrie S. Wright) refrain from violating any of the laws of the United States, and refrain from selling, engaging, or dealing in any manner regarding the distribution of the remedy involved in the case.

M. L. Wilson, *Acting Secretary of Agriculture.*

24125. Misbranding of Russell's Worm Rx. U. S. v. Isaiah D. Russell (I. D. Russell Co.). Plea of guilty. Fine, $25. (F. & D. no. 32110. Sample no. 22238–A.)

This case was based on an interstate shipment of a drug preparation, the labels of which contained unwarranted curative and therapeutic claims.

On October 12, 1934, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Isaiah D. Russell, trading as the I. D. Russell Co., Kansas City, Mo., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about April 7, 1933, from the State of Missouri into the State of Minnesota of a quantity of Russell's Worm Rx which was misbranded.

Analysis showed that the article consisted of a powdered mixture consisting essentially of nicotine sulphate, resinous plant material, copper sulphate, and nux vomica.

The article was alleged to be misbranded in that certain statements, designs, and devices regarding its therapeutic and curative effects, appearing on the box labels, falsely and fraudulently represented that it was effective as a treatment, remedy, and cure for all worms in poultry; effective to expel tape worms in chickens and turkeys; and effective as a treatment for fowls which are unthrifty, lame, have crooked necks, unsteady gait, pale combs, wattles, and are light in weight due to worms.

On December 17, 1934, the defendant entered a plea of guilty and the court imposed a fine of $25.

M. L. Wilson, *Acting Secretary of Agriculture.*

INDEX TO NOTICES OF JUDGMENT 24026–24125

[1] Contains a decision of the court.
[2] Conspiracy to violate the Food and Drugs Act

[1] Conspiracy to violate the Food and Drugs Act.

[1] Contains a decision of the court.
[2] Contains instructions to the jury.

U. S. GOVERNMENT PRINTING OFFICE: 1935

Issued November 1935

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

24126–24350

[Approved by the Secretary of Agriculture, Washington, D. C., October 1, 1935]

24126. Adulteration of dried figs. U. S. v. 1,000 Cases, et al., of Dried Figs. Decrees of condemnation. Product released under bond for segregation and destruction of unfit portions. (F. & D. nos. 34215, 34225–A, 34225–B, 34345. Sample nos. 1163–B, 17566–B, 17567–B, 17568–B.)

These cases involved interstate shipments of dried figs which were found to be in part insect-infested and moldy.

On October 30, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,000 cases of dried figs at Jersey City, N. J.

On October 31, November 9, and November 13, 1934, libels were filed in the Southern District of New York and the District of Massachusetts against 1,625 boxes of dried figs at New York, N. Y., and 625 boxes of dried figs at Boston, Mass. The libels alleged that the article had been shipped in interstate commerce in various shipments on or about October 3, October 4, and October 26, 1934, by G. Brucia, from San Francisco, Calif., and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "G. Brucia San Francisco Calif."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy and decomposed vegetable substance.

On December 5, December 7, December 11, and December 13, 1934, G. Brucia having appeared as claimant for the property and having admitted the allegations of the libels, judgments of condemnation were entered and it was ordered that the product be released under bond, conditioned that it be sorted and the unfit portions segregated and destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24127. Misbranding of canned peas. U. S. v. 40 Cases of Canned Peas. Default decree of condemnation. Product delivered to relief organization. (F. & D. no. 33423. Sample no. 6274–B.)

This case involved an interstate shipment of canned peas that fell below the standard established by this Department because of the presence of an excessive amount of ruptured peas, and that were not labeled to indicate that they were substandard.

On or about September 8, 1934, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel (amended December 19, 1934), praying seizure and condemnation of 40 cases of canned peas at Jacksonville, Fla., alleging that the article had been shipped in interstate commerce on or about April 30, 1934, by the G. L. Webster Canning Co., from Cheriton, Va., and charging misbranding in violation of the Food and Drugs Act as amended. The article

was labeled in part: "Webster's Select Quality Early June Peas * * * Packed by G. L. Webster Canning Co. Incorporated Cheriton Virginia."

It was alleged in the libel, as amended, that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, in that it did not consist of immature peas, since more than 25 percent by count were ruptured peas, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On December 19, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to a relief organization on condition that the labels be removed immediately, and that it be used for relief purposes and not sold.

M. L. WILSON, *Acting Secretary of Agriculture.*

24128. Adulteration of canned shrimp. U. S. v. 324 Cartons of Canned Shrimp. Consent decree of condemnation. Product released under bond for segregation and destruction of decomposed portion. U. S. v. 98 Cases, 196 Cases, and 90 Cases of Canned Shrimp. Default decrees of condemnation and destruction. (F. & D. nos. 33634, 33647, 34111. Sample nos. 1784–B, 4038–B, 12075–B, 12076–B.)

These cases involved interstate shipments of canned shrimp which was found to be in part decomposed.

On October 8, October 24, and October 26, 1934, the United States attorneys for the Northern District of California and the Western District of Washington, acting upon reports by the Secretary of Agriculture, filed in the respective district courts libels praying seizure and condemnation of 384 cases of canned shrimp at San Francisco and Oakland, Calif., and 1,125 cartons of canned shrimp at Seattle, Wash. On November 19, 1934, the libel filed in the Western District of Washington was amended and as amended covered 324 cases of the product instead of the 1,125 covered by the original libel. The libels alleged that the article had been shipped in interstate commerce in part on or about August 24, 1934, and in part on or about September 23, 1934, by the Dunbar-Dukate Co., Inc., from New Orleans, La., and that it was adulterated in violation of the Food and Drugs Act. A portion of the article was labeled: "Dunbar Brand Small Salad Shrimp * * * Distributed by Dunbar-Dukate Co., Inc. New Orleans, La." The remainder was labeled: "Original Dunbar Shrimp * * * Packed by Dunbar-Dukate Co., Inc. New Orleans, La."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On December 12, 1934, no claimant having appeared for the lots libeled in the Northern District of California, judgments of condemnation were entered and it was ordered that the said lots be destroyed. On January 16, 1935, the Dunbar-Dukate Co., Inc., having appeared as claimant for the lot libeled at Seattle, Wash., and having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the said lot be released to the claimant under bond, conditioned that the decomposed portion be segregated and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24129. Adulteration of apples. U. S. v. 78 Bushels of Apples. Default decree of destruction. (F. & D. no. 33747. Sample no. 4242–B.)

Examination of the apples involved in this case showed the presence of arensic and lead in amounts that might have rendered them injurious to health.

On September 29, 1934, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 78 bushels of apples at Neosho, Mo., alleging that the article had been shipped in interstate commerce on or about September 26, 1934, by J. T. McMurry, from Rogers, Ark., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On January 17, 1935, no claimant having appeared, judgment was entered ordering that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24130. Adulteration of apples. U. S. v. 65 Bushels of Apples. Default decree of destruction. (F. & D. no. 33750. Sample no. 4229–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them harmful to health.

On September 24, 1934, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 65 bushels of apples at Neosho, Mo., alleging that the article had been shipped in interstate commerce on or about September 20, 1934, by Otto Wright, from Springdale, Ark., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On January 17, 1935, no claimant having appeared, judgment was entered ordering that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24131. Adulteration of apples. U. S. v. 84 Bushels of Apples. Default decree of destruction. (F. & D. no. 33582. Sample no. 18194–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On September 13, 1934, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 84 bushels of apples at Joplin, Mo., alleging that the article had been shipped in interstate commerce on or about September 10, 1934, by B. E. Keith, from Hiwasse, Ark., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On January 17, 1934, no claimant having appeared, judgment was entered ordering that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24132. Adulteration of apples. U. S. v. 76 Bushels of Apples. Default decree of destruction. (F. & D. no. 33751. Sample no. 4230–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On September 24, 1934, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 76 bushels of apples at Neosho, Mo., alleging that the article had been shipped in interstate commerce on or about September 20, 1934, by Carl Wright, from Springdale, Ark., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On January 17, 1935, no claimant having appeared, judgment was entered ordering that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24133. Adulteration of tomato puree and tomato paste. U. S. v. Harbor City Food Corporation. Plea of guilty. Fine, $400. (F. & D. no. 33770. Sample nos. 37369–A, 54743–A, 54977–A, 60518–A, 60621–A.)

This case was based on interstate shipments of tomato puree and tomato paste. The tomato puree was found to be in part decomposed and filthy, and the paste was found to contain various forms of filth and metal objects.

On November 22, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Harbor City Food Corporation, Harbor City, Calif., alleging shipment by said company in violation of the Food and Drugs Act, on or about September 28 and October 11, 1933, from

the State of California into the State of Washington, of quantities of tomato puree and tomato paste which were adulterated.

The tomato puree was alleged to be adulterated in that it consisted in part of a decomposed vegetable substance, and in that it consisted in part of a filthy vegetable and animal substance. Adulteration of the tomato paste was alleged for the reason that substances, namely, pieces of bark material, a splinter of wood, a metal staple, two particles of metal, a strip of soldering, pieces of paper, and an insect wing, had been mixed and packed with said article so as to reduce, lower, and injuriously affect its quality, and had been substituted in part for the article. Adulteration of the tomato paste was alleged for the further reason that it contained added deleterious ingredients in amounts which might have rendered it injurious to health.

On December 17, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $400.

M. L. WILSON, *Acting Secretary of Agriculture.*

24134. Adulteration of canned shrimp. U. S. v. 25 Cases of Canned Shrimp. Default decree of condemnation and destruction. (F. & D. no. 34113. Sample no. 4744–B.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On or about October 19, 1934, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 cases of canned shrimp at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about August 11, 1934, by the St. Marys Canning Co., from Jacksonville, Fla., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Taylor Brand Shrimp * * * Packed by St. Marys Canning Co. St. Marys, Georgia."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On December 18, 1934, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24135. Adulteration of apples. U. S. v. 80 Bushels of Apples. Default decree of destruction. (F. & D. no. 34137. Sample no. 18356–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On September 29, 1934, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 80 bushels of apples at Milford, Mo., alleging that the article had been transported in interstate commerce on or about September 24, 1934, by True L. Medlin, Hiwasse, Ark., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On January 17, 1935, no claimant having appeared, judgment was entered ordering that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24136. Adulteration of tomato puree. U. S. v. 413 Cases, et al., of Tomato Puree. Default decrees of destruction. (F. & D. nos. 34162 to 34167, incl., 34174 to 34178, incl., 34200, 34235, 34291, 34292, 34336 to 34339, incl. Sample nos. 3277–B to 3281–B, incl., 3287–B to 3294–B, incl., 19608–B, 19609–B, 19610–B, 19612–B to 19615–B, incl.)

These cases involved various shipments of tomato puree that was found to contain excessive mold.

On or about October 25, October 27, October 31, and November 3, 1934, the United States attorney for the Western District of Kentucky, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 2,501 cases of tomato puree at Louisville, Ky., alleging that the article had been shipped in interstate commerce between the dates of August 20 and October 12, 1934, by the Marysville Packing Co., from Marysville, Ind., and charging adulteration in violation of the Food

and Drugs Act. On November 12, 1934, the United States attorney for the Eastern District of Kentucky filed a libel against 625 cases of tomato puree at Lexington, Ky., consigned between the dates of September 15 and September 17, 1934, by the Marysville Packing Co., from Marysville, Ind., alleging that the article had been shipped in interstate commerce and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "B & O Brand Tomato Puree * * * Packed by Marysville Packing Co. Marysville, Ind."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On January 21, March 13, and March 15, 1935, no claimant having appeared, judgments were entered ordering that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24137. Adulteration of canned shrimp. U. S. v. 10 Cases of Canned Shrimp. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 34179. Sample no. 17173–B.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On October 25, 1934, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 cases of canned shrimp at Albany, N. Y., alleging that the article had been shipped in interstate commerce on or about August 31, 1934, by the Nassau Packing Co., from Jacksonville, Fla., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Florida Chief Brand Nassau Shrimp * * * Packed by the Nassau Packing Co. S. S. Goffin, Jacksonville, Fla."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On December 28, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24138. Misbranding of salad oil. U. S. v. 37 Cases of Salad Oil. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 34183. Sample nos. 14202–B, 14204–B.)

This case involved an interstate shipment of salad oil consisting of domestic cottonseed oil which was labeled to convey the impression that it was olive oil of foreign origin. Sample cans taken from the shipment were found to be short volume.

On or about October 25, 1934, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 37 cases of salad oil at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about September 20, 1934, by Ossola Bros., of New York, N. Y., from Pittsburgh, Pa., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Olio Vegetale Purissimo Marca Garibaldi * * * Carmelo Aulino Packing Co., Akron, Ohio Net Contents 1 Gallon."

The article was alleged to be misbranded in that the designation, "Olio * * * Purissimo", the Italian name, "Garibaldi", together with a design of olive branches, picture of man in foreign garb, design of shield and crown, and use of the Italian National colors and cross, appearing on the can label were misleading and tended to deceive and mislead the purchaser since they created the impression that the product was imported olive oil; whereas it was domestic cottonseed oil. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so; for the further reason that the statement on the label, "Net contents 1 Gallon", was false and misleading and tended to deceive and mislead the purchaser since the cans contained less than 1 gallon; and for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously stated on the label since the statement made was incorrect.

On December 8, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24139. Adulteration of canned shrimp. U. S. v. 498 Cases and 199 Cases of Canned Shrimp. Product released under bond for segregation and destruction of decomposed portion. (F. & D. nos. 34193, 34194. Sample nos. 10878–B, 10880–B.)

These cases involved interstate shipments of canned shrimp which was found to be in part decomposed.

On October 29, 1934, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 697 cases of canned shrimp at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about September 11, 1934, by Stone Dwyer, Inc., from New Orleans, La., and charging adulteration in violation of the Food and Drugs Act. The article was labeled, variously: "Stone Dwyer Inc."; "Peacock Brand Dry Pack Shrimp * * * Packed for St. Martin Oyster Co., Houma, La."; "Gulf Stream Brand Shrimp * * * San Patricio Canning Co. Packers, Aransas Pass, Texas."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On December 27, 1934, Stone Dwyer, Inc., having appeared as claimant for the property, decrees were entered ordering that the product be released to the claimant under bond, conditioned that the decomposed portions be segregated and destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24140. Misbranding of salad oil. U. S. v. 86 Cases of Salad Oil. Decree of condemnation. Product released under bond to be relabeled or repacked. (F. & D. no. 34293. Sample no. 20612–B.)

This case involved an interstate shipment of a product consisting of cottonseed oil which was labeled to convey to the trade for which it was intended, the impression that it consisted of olive oil.

On November 5, 1934, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 86 cases of salad oil at Buffalo, N. Y., alleging that the article had been shipped in interstate commerce on September 26, 1934, by Proctor & Gamble, from Cincinnati, Ohio, and charging misbranding in violation of the Food and Drugs Act.

The article was labeled in part: "Puritani Olio Sopraffino Proctor & Gamble U. S. A."

The article was alleged to be misbranded in that the statements on the label, "Olio Sopraffino Per Insalata Per Cucinare Pure Vegetable Oil", were misleading and tended to deceive and mislead the purchaser, as applied to cottonseed oil, since the designation "Olio Sopraffino Per Insalata Per Cucinare" indicates olive oil to the consumer of Italian lineage to whom this product was offered, and since "Pure Vegetable Oil" includes olive oil and this misbranding was not corrected by the inconspicuous statement "Pure Cottonseed Oil", appearing near the bottom of one of the side panels.

On November 28, 1934, Caesar A. Tronolone, Buffalo, N. Y. having appeared as claimant for the property, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the cans be rebranded or the product repacked in correctly labeled new containers.

M. L. Wilson, *Acting Secretary of Agriculture.*

24141. Adulteration and misbranding of tomato puree. U. S. v. 147 Cases of Canned Tomato Puree. Default decree of condemnation and destruction. (F. & D. no. 34306. Sample no. 18320–B.)

This case involved an interstate shipment of canned tomato puree which was found to contain excessive mold.

On November 7, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 147 cases of canned tomato puree at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about September 7, 1934, by the De Schipper Canning Co., from Carthage, Ind., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "De Schipper's Highest Quality Fancy Tomato Puree Guaranteed to Comply with all Pure Food Laws * * * Packed by De Schipper Canning Co. Carthage, Ind."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

Misbranding was alleged for the reason that the statements on the label, "Fancy", "Highest Quality", and "Guaranteed to Comply with all Pure Food Laws", were false and misleading and tended to deceive and mislead the purchaser.

On December 12, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24142. Adulteration of canned tomatoes. U. S. v. 99 Cases of Canned Tomatoes. Default decree of condemnation and destruction. (F. & D. no. 34335. Sample no. 2958-B.)

This case involved an interstate shipment of canned tomatoes which were found to be in part decomposed and undergoing progressive decomposition.

On November 9, 1934, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 cases of canned tomatoes at Akron, Ohio, alleging that the article had been shipped in interstate commerce on or about August 2, 1934, by the Fairmount Packing Co., from Fairmount, Md., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fairmount Brand Tomatoes * * * Packed by Fairmount Packing Co. Fairmount, Md."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On December 21, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24143. Adulteration of butter. U. S. v. 68 Tubs of Butter. Default decree of condemnation and destruction. (F. & D. no. 34371. Sample no. 17614-B.)

This case involved an interstate shipment of butter, samples of which were found to contain rodent hairs and mold.

On November 1, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 68 tubs of butter at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about October 17, 1934, by the Fairview Creamery Co., from Houston, Tex., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy, decomposed, or putrid animal substance.

On December 8, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24144. Adulteration of canned mackerel. U. S. v. 200 Cases of Canned Mackerel. Default decree of condemnation and destruction. (F. & D. no. 34377. Sample no. 11420-B.)

This case involved an interstate shipment of canned mackerel which was found to be in part decomposed.

On December 19, 1934, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 cases of canned mackerel at Houston, Tex., alleging that the article had been shipped in interstate commerce on or about September 19, 1934, by the French Sardine Co., Inc., from Terminal Island, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Eatwell Brand California Mackerel * * * Packed by French Sardine Co., Inc. Terminal Island, California."

The article was alleged to be adulterated in that it consisted in part of a decomposed and putrid animal substance.

On December 28, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24145. Adulteration of tomato puree. U. S. v. 824 Cases of Tomato Puree. Default decree of condemnation and destruction. (F. & D. no. 34381. Sample no. 17616–B.)

This case involved an interstate shipment of tomato puree which was found to contain excessive mold.

On November 15, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 824 cases of tomato puree at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about September 18, 1934, by the Butterfield Canning Co., from Muncie, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sun Red Brand Tomato Puree * * * Packed by Butterfield Canning Co. Muncie, Ind."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On December 8, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24146. Misbranding of salad oil. U. S. v. 35 Cartons of Salad Oil. Default decree of condemnation and destruction. (F. & D. no. 34394. Sample no. 24001–B.)

This case involved a product consisting principally of domestic cottonseed oil which was labeled to convey the impression that it was olive oil of foreign origin.

On November 17, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 35 cartons of salad oil at Easton, Pa., alleging that the article had been shipped in interstate commerce on or about June 11, 1934, by Angelo D. Polizzi, from Rochester, N. Y., and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the brand name "La Feroce" in a foreign tongue, together with the picture of a foreign scene and the prominence given the words "Pure Olive Oil" on the label, and the predominantly green color of the label, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the article was imported olive oil; whereas it was principally domestic cottonseed oil. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so.

On December 8, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24147. Misbranding of salad oil. U. S. v. Fifty-five 1-Gallon Cans of Salad Oil. Default decree of condemnation and destruction. (F. & D. no. 34441. Sample no. 17265–B.)

This case involved an interstate shipment of a product, consisting essentially of cottonseed oil with little or no olive oil present, which was labeled to convey the impression that it was olive oil of foreign origin.

On November 26, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of fifty-five 1-gallon cans of salad oil at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about September 1, 1934, by the Delizia Olive Oil Co., Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Olio Finissimo Garantito La Deliziosa * * * Packed by Delizia Olive Oil Co. Inc."

The article was alleged to be misbranded in that the statements "Olio Finissimo Garantito La Deliziosa", the prominent words in the name of the company, "Olive Oil Co.", and the statement "Quest' olio e delizioso e raccomandato specialmente per insalata salse fritture e tutti gli use di tavola e cucina", together with a design of an olive branch, borne on the label, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the article was Italian olive oil; whereas it was not. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so.

On December 28, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24148. Adulteration of canned shrimp. U. S. v. 834 Cases of Canned Shrimp. Decree of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. no. 34454. Sample nos. 17940–B to 17953–B, incl.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On November 30, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 834 cases of canned shrimp at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about September 27, 1934, by the DeJean Packing Co., from Biloxi, Miss., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Chosen Few Shrimp * * * Packed by DeJean Packing Co., Biloxi, Miss."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On December 4, 1934, the H. A. McGinnis Co., Philadelphia, Pa., having appeared as claimant for the property, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the decomposed portion be segregated and destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24149. Misbranding of olive oil. U. S. v. 4 Cases of Olive Oil. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 34474. Sample no. 17585–B.)

This case involved an interstate shipment of alleged olive oil which was found to consist of domestic cottonseed oil with little or no olive oil present.

On December 7, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of four cases of alleged olive oil at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about August 7, 1934, by Kirsch Bros. Co., from North Bergen, N. J., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Pure Olive Oil 'El Toro' * * * Packed in Spain by Hijos de Ybarra."

The article was alleged to be misbranded in that the statements on the label, "Pure Olive Oil 'El Toro'" and "Packed in Spain by Hijos de Ybarra", were false and misleading and tended to deceive and mislead the purchaser, when applied to a product consisting essentially of domestic cottonseed oil with little or no olive oil; in that it purported to be a foreign product, whereas it was essentially domestic cottonseed oil; and in that it was sold under the distinctive name of another article, namely, olive oil.

On December 31, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24150. Adulteration of shell eggs. U. S. v. 125 Cases of Shell Eggs. Consent decree entered. Product released under bond for segregation and destruction of decomposed portion. (F. & D. no. 34502. Sample no. 19782–B.)

This case involved an interstate shipment of eggs that were found to be in part decomposed.

On November 10, 1934, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 125 cases of shell eggs at Cincinnati, Ohio, consigned July 26, 1934, alleging that the article had been shipped in interstate commerce by J. H. Brown Produce Co., from Louisville, Ky., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On December 10, 1934, the Cecilian Bank, Cecilia, Ky., having filed a claim for the property admitting the allegations of the libel, and having consented to the entry of a decree of condemnation, judgment was entered finding the product adulterated and ordering that it be released under bond, conditioned that the decomposed eggs be segregated and destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24151. Adulteration of butter. U. S. v. 127 Tubs of Butter. Consent decree of condemnation. Product released under bond for segregation and destruction of unfit portions. (F. & D. no. 34505. Sample no. 20834–B.)

This case involved an interstate shipment of butter, samples of which were found to contain mold, rodent hair, ants, and other filth.

On November 5, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 127 tubs of butter at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about October 18, 1934, by the Equity Union Creameries, Inc., from Mitchell, S. Dak., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "From Equity Union Creameries, Inc. * * * Mitchell, S. Dak."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy, decomposed, or putrid animal substance.

On December 11, 1934, the Equity Union Creameries, Inc., claimant, having admitted the allegations of the libel, and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that certain lots be segregated and destroyed, and that the remainder be examined and all portions found unfit for human consumption destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24152. Adulteration of apples. U. S. v. 14 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 34517. Sample no. 25247–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 25, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 14 bushels of apples at Chicago, Ill., alleging that the article had been transported in interstate commerce on or about October 15, 1934, by Dominie Canoni, from Bangor, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 18, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24153. Adulteration of canned mackerel. U. S. v. 413 Cases of Canned Mackerel. Decree of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. no. 34524. Sample no. 24116–B.)

This case involved an interstate shipment of canned mackerel which was found to be in part decomposed.

On December 6, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 413 cases of canned mackerel at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about July 24, 1934, by the Seaboard Packing Corporation, from Long Beach, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Long Beach Brand Mackerel * * * Packed by Seaboard Packing Corporation Long Beach, California."

The article was alleged to be adulterated in that it consisted in part of a decomposed animal substance.

On December 18, 1934, S. H. Levin's Sons, Philadelphia, Pa., having appeared as claimant for the property, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the decomposed portion be segregated and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24154. Adulteration of apples. U. S. v. 141 Bushels of Apples. Product released under bond for removal of deleterious substances. (F. & D. no. 34534. Sample no. 18264–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 23, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel against 141 bushels of apples at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about October 12, 1934, by Alf Wilson from Hamburg, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Packed By Alf Wilson Hamburg Ills."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, lead and arsenic, which might have rendered it injurious to health.

On November 28, 1934, Alf Wilson, Hamburg, Ill., claimant, having admitted the allegations of the libel and having consented that judgment be entered condemning and forfeiting the product, a decree was entered ordering that the apples be released under bond, conditioned that they be rewashed to remove the deleterious substances.

M. L. Wilson, *Acting Secretary of Agriculture.*

24155. Adulteration of apples. U. S. v. 161 Bushels of Apples. Product released under bond for removal of deleterious substances. (F. & D. no. 34535. Sample nos. 23370-B, 23395-B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 23, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel against 161 bushels of apples at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about September 21 and October 2, 1934, by the Floyd Orchards, from Greenville, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Grown And Packed Floyd Orchards Greenville Ill."

The article was alleged to be adulterated in that it contained added lead and arsenic which might have rendered it injurious to health.

On November 28, 1934, L. A. Floyd, Greenville, Ill., claimant, having admitted the allegations of the libel and having consented that judgment be entered condemning and forfeiting the product, a decree was entered ordering that the apples be released under bond, conditioned that they be rewashed to remove the deleterious substances.

M. L. Wilson, *Acting Secretary of Agriculture.*

24156. Adulteration of apples. U. S. v. 324 Bushels of Apples. Product released under bond for removal of deleterious substances. (F. & D. no. 34538. Sample nos. 18263-B, 18265-B, 23394-B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 23, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel against 324 bushels of apples at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about September 24, October 6, and October 14, 1934, by P. W. Wilson, from Hamburg, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "From P. W. Wilson Hamburg Ill."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, lead and arsenic, which might have rendered it injurious to health.

On November 28, 1934, P. W. Wilson, Hamburg, Ill., claimant, having admitted the allegations of the libel and having consented that judgment be entered condemning and forfeiting the product, a decree was entered ordering that the apples be released under bond, conditioned that they be rewashed to remove the deleterious substances.

M. L. Wilson, *Acting Secretary of Agriculture.*

24157. Adulteration of apples. U. S. v. 265 Bushels of Apples. Product released under bond for removal of deleterious substances. (F. & D. no. 34539. Sample nos. 23374-B, 23390-B, 23576-B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 23, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district

court a libel against 265 bushels of apples at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about October 6 and October 27, 1934, by Aug. Franke, from Batchtown, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Aug. Franke. Batchtown, Ill."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, lead and arsenic, which might have rendered it injurious to health.

On November 28, 1934, Aug. Franke, Batchtown, Ill., claimant, having admitted the allegations of the libel and having consented that judgment be entered condemning and forfeiting the product, a decree was entered ordering that the apples be released under bond, conditioned that they be rewashed to remove the deleterious substances.

M. L. WILSON, *Acting Secretary of Agriculture.*

24158. Adulteration of apples. U. S. v. 30 Bushels, et al., of Apples. Default decrees of condemnation and destruction. (F. & D. nos. 34656, 35085, 35088. Sample nos. 25327–B, 25328–B, 25330–B, 25696–B.)

Examination of the apples involved in these cases showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 30 and November 17, 1934, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 210 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 25 and November 14, 1934, by Great Lakes Fruit Industries, Inc., from Shelby, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "* * * Packed by Great Lakes Fruit Ind. Inc., Shelby, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 21, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24159. Adulteration of apples. U. S. v. 35 Baskets of Apples. Default decree of condemnation and destruction. (F. & D. no. 34664. Sample no. 20767–B.)

Examination of the apples involved in this case showed the presence of lead in amounts which might have rendered them injurious to health.

On November 26, 1934, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 35 baskets of apples at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about November 21, 1934, by A. J. Todkill, from Barker, N. Y., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, lead, which might have rendered it harmful to health.

On January 8, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24160. Adulteration of apples. U. S. v. 83 Bushels, et al., of Apples. Consent decree of condemnation and forfeiture. Product released under bond for removal of deleterious substances. (F. & D. no. 34668. Sample nos. 4345–B, 13472–B to 13475–B, incl.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 8, 1934, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 470 bushels of apples at Jacksonville, Ill., alleging that the article had been transported in interstate commerce on or about October 25, October 26, and October 27, 1934, by Mrs. Bailey, of Jacksonville, Ill., from Louisiana, Mo., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On November 15, 1934, Eva Bailey, Jacksonville, Ill., having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the apples be released under bond, conditioned that the deleterious substances be removed or that that they be peeled and the peelings destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24161. Adulteration of apples. U. S. v. 165 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 34703. Sample no. 24925–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 21, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 165 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 20, 1934, by John S. Nagelirk, from Zeeland, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "* * * Wolfriver * * * Grown and Packed by Umlor Bros. Conklin, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 16, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24162. Adulteration of canned tomato puree. U. S. v. 229 Cases of Tomato Puree. Default decree of destruction. (F. & D. no. 34789. Sample no. 19426–B.)

This case involved an interstate shipment of tomato puree which was found to contain excessive mold.

On or about December 5, 1934, the United States attorney for the Western District of Kentucky, acting upon a report by the State Department of Health of the State of Kentucky, filed in the district court a libel praying seizure and condemnation of 229 cases of tomato puree at Louisville, Ky., alleging that the article had been shipped in interstate commerce on or about September 29, 1934, by the Henryville Canning Co., Inc., from Henryville, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Crystal Springs Tomato Puree."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On January 21, 1935, no claimant having appeared, judgment was entered ordering that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24163. Adulteration of apples. U. S. v. 144 Bushels of Apples. Product released under bond for removal of deleterious substances. (F. & D. no. 34806. Sample no. 18272–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 27, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel against 144 bushels of apples at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about October 4, 1934, by William Ringhausen, from Fieldon, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Grown and Packed William Ringhausen Fieldon Ill."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, lead and arsenic, which might have rendered it injurious to health.

On December 4, 1934, Louis Keller, St. Louis, Mo., claimant, having admitted the allegations of the libel and having consented that judgment be entered condemning and forfeiting the product, a decree was entered ordering that the apples be released under bond conditioned that they be rewashed to remove the deleterious substances.

M. L. WILSON, *Acting Secretary of Agriculture.*

24164. Adulteration of apples. U. S. v. 137 Bushels of Apples. Product released under bond for removal of deleterious substances. (F. & D. no. 34807. Sample no. 18271–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 27, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel against 137 bushels of apples at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about October 4, 1934, by Margaret Ringhausen, from Hardin, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Grown and Packed by Margaret Ringhausen, Hardin, Illinois."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, lead and arsenic, which might have rendered it injurious to health.

On December 4, 1934, Louis Keller, St. Louis, Mo., claimant, having admitted the allegations of the libel and having consented that judgment be entered condemning and forfeiting the product, a decree was entered ordering that the apples be released under bond, conditioned that they be rewashed to remove the deleterious substances.

M. L. Wilson, *Acting Secretary of Agriculture.*

24165. Adulteration of apples. U. S. v. 1,231 Bushels of Apples. Product released under bond for removal of deleterious substances. (F. & D. no. 34808. Sample nos. 4346–B, 4347–B, 23351–B, 23352–B, 23353–B, 23356–B, 23357–B, 23358–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 7, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel against 1,231 bushels of apples at St. Louis, Mo., alleging that the article had been shipped in interstate commerce between the dates of September 21 and November 2, 1934, by Kinman Bros., from Hamburg, Ill., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled: "Kinman Bros. Quality Brand Fruit Farm Hamburg, Ill."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, lead and arsenic, which might have rendered it injurious to health.

On November 15, 1934, Sam Kinman, Hamburg, Ill., having filed a claim for the product and having admitted the allegations of the libel, judgment was entered ordering that the apples be released to the said claimant under bond, conditioned that they be rewashed to remove the deleterious substances.

M. L. Wilson, *Acting Secretary of Agriculture.*

24166. Adulteration of apples. U. S. v. 123 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 34810. Sample nos. 25364–B, 25366–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 26, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 123 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 20, 1934, by M. B. Pratt, from Shelby, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fancy Michigan Fruit Grown & Packed by M. B. Pratt Shelby, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 18, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24167. Adulteration of apples. U. S. v. 128 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 34811. Sample nos. 25315–B, 25316–B, 25317–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 16, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 128 bushels of apples at Chicago, Ill., alleging that the article had been transported in interstate commerce on or about November 9, 1934, by H. Doniger, from Benton Harbor and Berrien Springs, Mich., and charging adulteration in violation of the Food and Drugs Act. Portions of the article were labeled: "W. M. Catchel Eau Claire Mich." The remainder were unlabeled.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 17, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24168. Adulteration of apples. U. S. v. 318 Bushels and 255 Bushels of Apples. Consent decree of condemnation. Product released under bond for removal of deleterious substances. (F. & D. nos. 34819, 35092. Sample nos. 24955–B, 24961–B, 24962–B, 24968–B, 24969–B, 24983–B.)

Examination of the apples involved in these cases showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 26 and November 28, 1934, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 573 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce between the dates of September 15 and October 12, 1934, in part by L. A. Spencer, from South Haven, Mich., and in part by Floyd M. Barden, from South Haven, Mich., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled: "Packed by L. A. Spencer So. Haven Mich." The remainder was labeled: "Grown and Packed by Floyd M. Barden, South Haven, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On December 14, 1934, the cases having been consolidated, and William J. Ellis & Co., Chicago, Ill., claimant, having admitted the allegations of the libels and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the deleterious substances be removed by cleaning.

M. L. Wilson, *Acting Secretary of Agriculture.*

24169. Adulteration of apples. U. S. v. 21 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 34887. Sample no. 25349–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 26, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 21 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 19, 1934, by Steve Miliskiewicz, from South Haven, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Steve Miliskiewicz, South Haven, Mich. Grimes Golden."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 18, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24170. Adulteration of apples. U. S. v. 29 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 34888. Sample no. 25069–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On December 12, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 29 bushels of apples

at Chicago, Ill., alleging that the article had been transported in interstate commerce on or about November 4, 1934, by Wackernagel Bros., from Shelby, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Wackernagel Bros. Shelby Mich Snow."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 21, 1935, no claimant have appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24171. Adulteration of apples. U. S. v. 607 Bushels of Apples. Consent decree of condemnation. Product released under bond for removal of deleterious substances. (F. &. D. no. 34952. Sample nos. 25421–B, 25422–B, 25426–B, 25434–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On or about December 13, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 607 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce in various lots between the dates of September 28 and October 3, 1934, by the Saugatuck Fruit Exchange, from Saugatuck, Mich., and charging adulteration in violation of the Food and Drug Act. Portions of the article were labeled: "From Saugatuck Fruit Exchange Saugatuck, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 21, 1935, A. W. Barnett & Co., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the apples be released to the claimant under bond, conditioned that they be washed to remove the deleterious ingredients.

M. L. WILSON, *Acting Secretary of Agriculture.*

24172. Adulteration of apples. U. S. v. 578 Bushels of Apples. Consent decree of condemnation. Product released under bond for removal of deleterious substances. (F. & D. no. 34953. Sample no. 1944–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 26, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 578 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 1, 1934, by the Millburg Fruit Growers Exchange, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Millburg Growers Exchange Benton Harbor, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 17, 1934, the Millburg Fruit Growers Exchange, claimant, having admitted the allegations of the libel, and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the apples be released under bond, conditioned that they be washed to remove the deleterious substances.

M. L. WILSON, *Acting Secretary of Agriculture.*

24173. Adulteration of apples. U. S. v. 291 Bushels of Apples. Consent decree of condemnation. Product released under bond for removal of deleterious substances. (F. & D. no. 34956. Sample nos. 1934–B, 1950–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 30, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 291 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate com-

merce on or about October 12 and October 15, 1934, by A. M. Scott, from Bear Lake, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Harold A. Bunker, Bear Lake, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On December 17, 1934, Wayne & Low, Chicago, Ill., claimants, having admitted the allegations of the libel, and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the apples be released to the claimant under bond conditioned that they be washed to remove the deleterious substances.

M. L. Wilson, *Acting Secretary of Agriculture.*

24174. Adulteration of apples. U. S. v. 21 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 35018. Sample no. 24796–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 16, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 21 bushels of apples at Chicago, Ill., alleging that the article had been transported in interstate commerce on or about November 9, 1934, by Harbor Fruit, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Wm Catchel Eau Claire Mich Winesaps."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 18, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24175. Adulteration of apples. U. S. v. 38 Crates of Apples. Default decree of condemnation and destruction. (F. & D. no. 35076. Sample no. 25202–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 30, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 38 crates of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 20, 1934, by John Lore, from Fennville, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 16, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24176. Adulteration of apples. U. S. v. 1,769 Bushels, et al., of Apples. Consent decree of condemnation. Product released under bond. (F. & D. nos. 35094, 35095, 35096. Sample nos. 19031–B to 19039–B, incl., 19041–B, 19042–B, 19044–B to 19050–B, incl., 19052–B, 19055–B, 19057–B, 19058–B, 19126–B to 19129–B, incl.)

Examination of the apples involved in these cases showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 2, November 6, and November 20, 1934, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 7,084 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce between the dates of September 24 and October 17, 1934, by L. N. Markham, from Bangor, Mich., and charging adulteration in violation of the Food and Drugs Act. Portions of the article were labeled: "Henry Nichols R 1 Benton Harbor Mich."; "Leroy N. Markham, Bangor, Mich."; "Packed and Grown by Carne Tucker Fennville, Mich.";

"Wm. Hauch, Benton Harbor, Mich."; "W. C. Harrington R-3 Benton Harbor, Mich."; "Perry Spink Benton Harbor Mich."; "Reuben F. Kniebas Coloma Mich."; "Ewald Brenner R-2 Watervliet Mich." The remainder were unlabeled.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On December 18, 1934, the Sunkist Pie Co., Chicago, Ill., having appeared as claimant and the cases having been consolidated, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it should not be disposed of contrary to the provisions of the Food and Drugs Act and all other laws.

M. L. WILSON, *Acting Secretary of Agriculture.*

24177. Adulteration of apples. U. S. v. 44 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 35097. Sample no. 25368–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 26, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 44 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 21, 1934, by Root & Son, from Bangor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Root & Son Bangor, Mich. * * * Starks Delicious."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 19, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

2417S. Adulteration of frozen eggs. U. S. v. Swift & Co. Plea of guilty. Fine, $250. (F. & D. no. 26681. I. S. no. 9167.)

This case was based on an interstate shipment of frozen eggs which were found to be in part decomposed.

On December 22, 1931, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Swift & Co., a corporation, trading at Fort Worth, Tex., alleging shipment by said company in violation of the Food and Drugs Act on or about May 5, 1930, from the State of Texas into the State of Maryland of a quantity of frozen eggs which were adulterated. The article was contained in cans labeled in part: "American Albumen Corporation Frozen Eggs * * * New York–Dallas Mixed Eggs."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

On January 11, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of $250.

M. L. WILSON, *Acting Secretary of Agriculture.*

24179. Adulteration and misbranding of canned oysters. U. S. v. Anticich Packing Co., Inc. Plea of guilty. Fine, $100. (F. & D. no. 27545. I. S. no. 11166.)

This case was based on interstate shipments of canned oysters which were found to contain excessive brine. Examination showed further that the weight of the drained meat was less than 5 ounces, the weight declared on the label.

On March 29, 1934, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Anticich Packing Co., Inc., Biloxi, Miss., alleging shipment by said company on or about April 1, 1931, from the State of Mississippi, via New Orleans, La., into the State of Oregon, of a quantity of canned oysters which were adulterated and misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: (Can) "American Beauty Oysters Net Contents 5 Ounces Oyster Meat Packed by Anticich Packing Company, Inc. Biloxi, Miss."

The article was alleged to be adulterated in that excessive brine had been mixed and packed therewith so as to reduce and lower and injuriously affect its

quality and strength, and had been substituted in part for oyster meat, which the article purported to be.

Misbranding was alleged for the reason that the statements, "Oysters" and "Net Contents 5 Ounces Oyster Meat", borne on the label, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statements represented that the article consisted wholly of oysters and that each of the cans contained 5 ounces of oyster meat; whereas it did not consist wholly of oysters, but did consist in part of excessive brine, and each of said cans did not contain 5 ounces but did contain a less amount. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On February 28, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of $100.

M. L. WILSON, *Acting Secretary of Agriculture.*

24180. Adulteration of oysters. U. S. v. Wallace M. Quinn (The Wallace M. Quinn Co.). Plea of nolo contendere. Fine, $25 and costs. (F. & D. no. 29342. I. S. nos. 43251, 43252.)

This case was based on an interstate shipment of oysters which were found to contain added water.

On May 2, 1934, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Wallace M. Quinn, trading as the Wallace M. Quinn Co., Crisfield, Md., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about December 21, 1931, from the State of Maryland into the State of Pennsylvania, of a quantity of oysters which were adulterated. The article was labeled in part: "Packed By The Wallace M. Quinn Co. Crisfield, Md."

The article was alleged to be adulterated in that water had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength, and in that an added substance, water, had been substituted in part for the article.

On January 9, 1935, the defendant entered a plea of nolo contendere, and the court imposed a fine of $25 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

24181. Adulteration of butter. U. S. v. Eustis Cooperative Creamery Co. Plea of guilty. Fine, $50. (F. & D. no. 29414. Sample no. 10397-A.)

This case was based on an interstate shipment of butter that contained less than 80 percent by weight of milk fat.

On August 8, 1933, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Eustis Cooperative Creamery Co., a corporation, Eustis, Nebr., alleging shipment by said company on or about May 3, 1932, from the State of Nebraska into the State of New York, of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as required by the act of Congress of March 4, 1923, which the article purported to be.

On March 4, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of $50.

M. L. WILSON, *Acting Secretary of Agriculture.*

24182. Adulteration and misbranding of butter. U. S. v. Paul A. Schulze Co. Plea of nolo contendere. Fine, $300. (F. & D. no. 29525. Sample nos. 10940-A, 10941-A, 34880-A, 34884-A.)

This case was based on interstate shipments of butter that contained less than 80 percent by weight of milk fat.

On February 5, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Paul A. Schulze Co., a corporation, St. Louis, Mo., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about May 19, 1932, from the State of Missouri into the State of New York, and on or about January 24 and February 4, 1933, from the State of Missouri into the State of Pennsylvania, of quantities of butter which was adulterated and misbranded. The article was labeled in

part, variously: "Trojan Brand Creamery Butter Packed Expressly for The Lawlor & Cavanaugh Company"; "Clover Springs Select Cream Country Roll Butter * * * Distributed By Paul A. Schulze Co., St. Louis, Mo. One Pound Net"; "1 Lb Net Weight No. 773."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as defined and required by the act of Congress of March 4, 1923, which the article purported to be.

Misbranding was alleged with respect to portions of the article for the reason that the statement "Butter", borne on the package labels, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the said statement represented that the article was butter, a product which must contain not less than 80 percent by weight of milk fat; whereas it was not butter as defined by law, but was a product containing less than 80 percent by weight of milk fat.

On October 10, 1934, a plea of nolo contendere was entered on behalf of the defendant company, and the court imposed a fine of $300.

M. L. WILSON, *Acting Secretary of Agriculture.*

24183. Adulteration and misbranding of canned chicken. U. S. v. 300 Cases and 299 Cases of Canned Chicken. Decree providing for release of product under bond to be relabeled. (F. & D. no. 30038. Sample nos. 29255–A, 29256–A.)

This case involved an interstate shipment of canned chicken which was found to contain packing medium (broth) in excess of the amount necessary for proper processing. The product fell below the standard established by the Secretary of Agriculture and was not labeled to indicate that it was substandard.

On April 1, 1933, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 599 cases of canned chicken at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about February 28, 1933, by the Washington Cooperative Egg & Poultry Association, from Seattle, Wash., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Lynden Brand Boneless Roast Chicken Breast and Legs."

The article was alleged to be adulterated in that broth had been mixed and packed therewith so as to reduce, lower, or injuriously affect its quality or strength, and had been substituted in part for the article.

Misbranding was alleged for the reason that the statement "Boneless Roast Chicken" was false and misleading and deceived and misled the purchaser, when applied to canned chicken containing excessive packing medium. Misbranding was alleged for the further reason that the article was canned food and failed to meet the standard for fill of container established by regulation of this Department, since the packing medium exceeded that necessary for proper processing.

On March 11, 1935, the Washington Cooperative Egg & Poultry Association having appeared as claimant for the property and having admitted the allegations of the libel, judgment was entered ordering that the product be delivered to the claimant under bond, conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

24184. Misbranding of peanut meal. U. S. v. Eufaula Cotton Oil Co. Tried to the court. Judgment of guilty. Fine, $25. (F. & D. no. 30305. Sample no. 17791–A.)

This case was based on an interstate shipment of peanut meal that contained less protein than declared on the label.

On July 27, 1934, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Eufaula Cotton Oil Co., a corporation, Eufaula, Ala., alleging shipment by said company in violation of the Food and Drugs Act, on or about August 11, 1932, from the State of Alabama into the State of Maryland, of a quantity of peanut meal that was misbranded. The article was labeled in part: "Green Tag Brand Prime Peanut Meal Guaranteed Analysis Protein, Minimum 45.00% * * * Manufactured for Green-Mish Company Washington District of Columbia."

The article was alleged to be misbranded in that the statement "Guaranteed Analysis Protein, Minimum 45.00%", borne on the label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since it contained less than 45 percent of protein.

On February 25, 1935, the case having been submitted to the court without a jury, judgment of guilty was entered and the court imposed a fine of $25.

M. L. Wilson, *Acting Secretary of Agriculture.*

24185. Adulteration and misbranding of peanut meal. U. S. v. DeLeon Peanut Co. Plea of guilty. Fine, $200. (F. & D. no. 31367. Sample no. 16972–A.)

This case was based on an interstate shipment of peanut meal which was adulterated because of deficiency in protein and misbranded because of failure to declare the quantity of the contents.

On January 15, 1934, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the DeLeon Peanut Co., a corporation, DeLeon, Tex., alleging shipment by said company in violation of the Food and Drugs Act as amended on or about December 12, 1932, from the State of Texas into the State of Missouri, of a quantity of peanut meal which was adulterated and misbranded. The article was invoiced as 43 percent protein peanut meal.

The article was alleged to be adulterated in that a product containing less than 43 percent of protein had been substituted for 43 percent protein peanut meal, which the article purported to be.

Misbranding was alleged for the reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On January 11, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of $200.

M. L. Wilson, *Acting Secretary of Agriculture.*

24186. Adulteration of apples. U. S. v. Harold D. Comfort. Plea of guilty. Fine, $1. (F. & D. no. 31386. Sample no. 15695–A.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On June 28, 1934, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Harold D. Comfort, Lawrence, Kans., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about September 14, 1932, from the State of Arkansas into the State of Kansas, of a quantity of apples which were adulterated.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, namely, arsenic and lead, which might have rendered it injurious to health.

On September 17, 1934, the defendant entered a plea of guilty and the court imposed a fine of $1.

M. L. Wilson, *Acting Secretary of Agriculture.*

24187. Adulteration of apples. U. S. v. Cecil Johnston. Plea of guilty. Fine, $2. (F. & D. no. 31389. Sample nos. 15704–A, 15716–A.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On June 28, 1934, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Cecil Johnston, Vinita, Okla., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about October 6 and October 18, 1934, from the State of Arkansas into the State of Oklahoma, of a quantity of apples which were adulterated.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, namely, arsenic and lead, which might have rendered it injurious to health.

On January 16, 1935, the defendant entered a plea of guilty and the court imposed a fine of $2.

M. L. Wilson, *Acting Secretary of Agriculture.*

24188. Adulteration of apples. U. S. v. Fred Gordon. Plea of guilty. Fine, $1. (F. & D. no. 31398. Sample nos. 25356–A, 25361–A.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On June 28, 1934, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Fred Gordon, Watts, Okla., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about September 20 and September 29, 1932, from the State of Arkansas into the State of Oklahoma, of quantities of apples which were adulterated.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, namely, arsenic and lead, which might have rendered it injurious to health.

On January 8, 1935, the defendant entered a plea of guilty and the court imposed a fine of $1.

M. L. WILSON, *Acting Secretary of Agriculture.*

24189. Alleged adulteration of apples. U. S. v. Lee Smith. Tried to the court. Judgment of not guilty. (F. & D. no. 31399. Sample no. 25360–A.)

On May 3, 1934, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Lee Smith, trading at Springdale, Ark., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about September 26, 1932, from the State of Arkansas into the State of Oklahoma of a quantity of apples which were adulterated.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, namely, arsenic and lead, which might have rendered it injurious to health.

On May 31, 1934, a jury having been waived, the defendant was tried to the court and was adjudged not guilty.

M. L. WILSON, *Acting Secretary of Agriculture.*

24190. Adulteration of butter. U. S. v. Henry W. Ipsen (Cuba City Creamery). Tried to a jury. Verdict of guilty. Fine, $50 and costs. (F. & D. no. 31404. Sample no. 22225–A.)

This case was based on an interstate shipment of butter which contained less than 80 percent by weight of milk fat.

On January 30, 1934, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Henry W. Ipsen, trading as the Cuba City Creamery, Cuba City, Wis., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about May 8, 1933, from the State of Wisconsin into the State of Iowa, of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as defined by the act of Congress of March 4, 1923, which the article purported to be.

On November 12, 1934, the case came on for trial before a jury. At the conclusion of the testimony the court delivered the following charge to the jury (Stone, *district judge*):

THE COURT: Gentlemen of the jury, as you know now, the defendant in this case is charged with unlawfully shipping butter from Cuba City, Wisconsin, to Dubuque, Iowa, on the 8th day of May, 1933.

The Federal statute prohibits the shipments of butter from one State to another containing less than 80 percent butterfat, and the Government contends in this case that the defendant violated that statute in that he shipped butter from Cuba City to Dubuque, Iowa, containing less than 80 percent butterfat, containing butterfat of 78.03 and butterfat of 78 percent.

There has been some testimony here that the witness Conzett acted as the agent and employee of the defendant. It is the law that what one man may do himself he may do through an agent or employee, and any act of the employee or agent is considered in law the act of the employer or principal.

Every person accused of crime must be presumed to be innocent, and that presumption must prevail and prevent a conviction unless he is finally proven guilty. The defendant is not under any obligation to prove his innocence, but is presumed to be innocent, and the burden rests upon the Government to prove that he is guilty beyond all reasonable doubt. That presumption attends the defendant throughout the trial, and before you have a right to find him guilty of any crime every member of the jury must be convinced by a full considera-

ton of all the evidence beyond all reasonable doubt that he is guilty. If the evidence fails to so convince you, it is your duty to acquit him.

It is the duty of the jury to reconcile the evidence with the presumption of innocence if it can be done reasonably, but if, after a fair and reasonable consideration of all the evidence, the jury become satisfied beyond all reasonable doubt that the defendant is guilty, then you should of course find him guilty.

You should distinguish between a reasonable doubt and one that is not reasonable. A doubt which is merely fanciful, which ignores a reasonable interpretation of the evidence, or arises merely from sympathy or from fear to return a verdict of guilt, is not a reasonable doubt. A reasonable doubt is one for which a good reason can be given, based upon the nature or insufficiency of the evidence in the case.

Guilt is proved beyond a reasonable doubt when all the evidence fully and fairly considered is sufficient to produce in the mind of an ordinarily intelligent person, a prudent juror, a conviction of the defendant's guilt so clear that he would act thereon without hesitation if it related to the most important affairs of his life.

Now, gentlemen, you are the judges of the credibility and the weight that should be given to the testimony of the different witnesses who have testified in this case. In determining such credibility and weight you should consider their interest, if any has been shown, in the result of the trial, their feeling, bias, or prejudice, if any has been shown, their demeanor while upon the witness stand, their means of information, the extent of their opportunity for knowing or observing the matters and things testified to by them, the clearness or lack of clearness of their recollection, as well as their apparent disposition to be truthful, and to truthfully and impartially testify to the matters and things given in evidence by them, and you will give such credit and weight to the testimony of each witness as you may deem it to be entitled to.

The weight of the evidence is not to be decided merely according to the number of witnesses on each side. You may find that the testimony of one witness is entitled to more credibility than another witness, or several other witnesses, and you may give to the testimony of such witness such weight as you deem it entitled to.

If you believe or conclude that any witness has testified falsely in regard to any material fact in this case you are at liberty to disregard all his testimony unless it is corroborated by other credible evidence.

As I have stated, the burden of proof is upon the Government to satisfy you by evidence beyond a reasonable doubt of the guilt of the defendant; and by burden of proof in this case is meant the duty resting upon the Government to satisfy the minds of the jury beyond all reasonable doubt of the guilt of the defendant.

In case the evidence fails to satisfy you beyond all reasonable doubt the defendant is guilty as charged in the indictment, then you should acquit him.

If, on the other hand, you are satisfied from the evidence beyond all reasonable doubt that the defendant is guilty of the offense charged, then you should return a verdict of guilty.

You must scrutinize the evidence with the utmost caution and care, and bring into that duty the reason and prudence you exercise in the most important affairs of your life, in fact, all the judgment, caution, and discrimination you possess, and if, after such scrutiny, you entertain no reasonable doubt of the guilt of the accused, you will convict; otherwise acquit.

If it is possible to reasonably reconcile the facts shown in evidence with the innocence of the defendant, it is your duty to do so.

Now, this is an important case. The amount involved is not much in dollars and cents, but this Federal statute was enacted for a purpose, for the purpose of protecting the public and protecting the manufacturer of food, and I want you to give the case the consideration it deserves, and I know that you will.

In considering this case I do not want you to be influenced by any feeling of prejudice or sympathy for or against the defendant. Just determine this case and reach your verdict on the evidence that you have heard here in court and upon the instructions I have given you.

Are there any exceptions or any suggestions from counsel?

Mr. STEPHENS: If the court please, I would like to have the court instruct the jury something to this effect; that unless you are satisfied beyond a reasonable doubt from a fair and impartial consideration of the evidence

presented that the butter contained in exhibits 4 and 5 was the butter of the defendant, your verdict will be not guilty.

The COURT: Yes; I think that is a fair instruction. If you are satisfied that this butter was not the butter that was manufactured and shipped by the defendant, then of course you will find the defendant not guilty.

On the other hand, if you are satisfied from the evidence beyond all reasonable doubt that this butter was manufactured by the defendant and shipped by him to Dubuque, and that it contained less than 80 percent butterfat, then of course your verdict will be otherwise.

Are there any other suggestions?

Mr. HANSON: None.

The COURT: The clerk may swear an officer. I have prepared, gentlemen, forms of verdict for you, which read as follows: After the title of the case,

"We, the jury, duly impaneled and sworn to try the issues in the above entitled action, for our verdict find the defendant guilty as charged in the information."

That is the one you will use if you find the defendant guilty.

If you find the defendant not guilty you will use the other verdict, which reads as follows: After the title of the case,

"We, the jury, duly impaneled and sworn to try the issues in the above entitled action, for our verdict find the defendant not guilty."

The jury retired and after due deliberation returned a verdict of guilty, and the court imposed a fine of $50 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

24191. Misbranding of cottonseed meal. U. S. v. The Clarksville Cotton Oil Co. Plea of guilty. Fine, $5 and costs. (F. & D. no. 31416. Sample no. 18928–A.)

This case was based on an interstate shipment of cottonseed meal but contained less than 43 percent of protein, the amount declared on the label.

On February 7, 1934, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Clarksville Cotton Oil Co., a corporation, Clarksville, Tex., alleging shipment by said company in violation of the Food and Drugs Act, on or about November 25, 1932, from the State of Texas into the State of Missouri of a quantity of cottonseed meal which was misbranded. The article was labeled in part: "43 Per Cent Protein Cotton Seed Meal, Prime Quality Manufactured By The Clarksville Cotton Oil Co. Clarksville, Texas Guaranteed Analysis: Crude Protein, not less than 43.00 Per cent."

The article was alleged to be misbranded in that the statement on the label, "Guaranteed Analysis: Crude Protein not less than 43.00 Per Cent", was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since it contained less than 43 percent of protein, namely, 39.57 percent of protein.

On January 7, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of $5 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

24192. Adulteration of apples. U. S. v. James C. Palumbo (J. C. Palumbo Fruit Co.). Plea of guilty Judgment against defendant for costs. (F. & D. no. 31417. Sample no. 25423–A.)

Examination of the apples in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On April 7, 1934, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court an information against James C. Palumbo, trading as the J. C. Palumbo Fruit Co.) at Payette, Idaho, alleging shipment by said defendant in violation of the Food and Drugs Act on or about February 24, 1933, from the State of Idaho into the State of Missouri of a quantity of apples which were adulterated. The article was labeled in part: (Basket) "La Paluma Brand * * * Winesap * * * J. C. Palumbo Fruit Co. Payette, Idaho."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On November 1, 1934 the defendant entered a plea of guilty. The judgment of the court was that the defendant pay costs of proceedings.

M. L. WILSON, *Acting Secretary of Agriculture.*

24193. Misbranding of canned black-eyed peas and canned red beans. U. S. v. Thrift Packing Co. Plea of guilty. Fine, $25. (F. & D. no. 31430. Sample nos. 2243–A, 2244–A.)

This case was based on interstate shipments of canned black-eyed peas and canned red beans which were found to be short weight.

On January 3, 1934, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Thrift Packing Co., a corporation, Fort Worth, Tex., alleging shipment by said company in violation of the Food and Drugs Act, on or about February 25, 1932, from the State of Texas into the State of New Mexico of quantities of canned black-eyed peas and canned red beans which were misbranded. The articles were labeled: "Blue & White Brand Contents 1 Pound * * * Black-Eyed Peas [or "Red Beans"] * * * Red & White Corp'n Distributors * * * Buffalo, N. Y."

The articles were alleged to be misbranded in that the statement "Contents 1 Pound", borne on the label, was false and misleading, and for the further reason that they were labeled so as to deceive and mislead the purchaser, since the cans contained less than 1 pound.

On January 11, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $25.

M. L. Wilson, *Acting Secretary of Agriculture.*

24194. Misbranding of olive oil. U. S. v. Mallars & Co. Plea of guilty. Fine, $50. (F. & D. no. 31431. Sample nos. 36106–A, 36110–A.)

This case was based on an interstate shipment of olive oil which was found to be short volume.

On May 22, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Mallars & Co., a corporation, Chicago, Ill., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about March 28, 1933, from the State of Illinois into the State of Utah, of a quantity of olive oil which was misbranded. The article was labeled in part: "Contents 1 Gallon Athlete Brand Pure Olive Oil * * * Mallars & Company Chicago."

The article was alleged to be misbranded in that the statement "Contents 1 Gallon", borne on the can label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser since the cans contained less than 1 gallon. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On January 11, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $50.

M. L. Wilson, *Acting Secretary of Agriculture.*

24195. Misbranding of cottonseed meal. U. S. v. Cairo Meal & Cake Co. Plea of guilty. Fine, $75. (F. & D. no. 31432. Sample nos. 14143–A, 16970–A, 18930–A.)

This case was based on interstate shipments of cottonseed meal which contained less crude protein than declared on the label, and a portion of which contained more crude fiber than declared.

On May 10, 1934, the United States attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Cairo Meal & Cake Co., a corporation, Cairo, Ill., alleging shipment by said company in violation of the Food and Drugs Act, on or about November 22, 1932, and July 13, 1933, from the State of Illinois into the State of Missouri, and on or about November 7, 1933, from the State of Illinois into the State of Maryland, of quantities of cottonseed meal which was misbranded. Portions of the article were labeled: "Miss Cairo Brand * * * 43 Per Cent Protein Cottonseed Meal Prime Quality Manufactured by Cairo Meal & Cake Company Cairo, Illinois. Guaranteed Analysis Crude Protein not less than 43 per cent * * * Crude Fibre not more than 10 per cent." The remainder of the article was labeled: "Guaranteed Analysis Protein (Min.) 43.00% Monarch Brand Cotton Seed Meal 43% Protein Ashcraft-Wilkinson Co. Atlanta, Ga."

The article was alleged to be misbranded in that the following statements on the labels, namely, "43 Per Cent Protein Cottonseed Meal", "Guaranteed

Analysis Crude Protein, not less than 43 Per Cent", and "Crude Fibre, not more than 10 per cent", with respect to a portion of the article; the statements "43 Per Cent Protein Cottonseed Meal", and "Guaranteed Analysis Crude Protein, not less than 43 per cent", with respect to a portion; and the statement "Guaranteed Analysis Protein (Min.) 43.00%", with respect to a portion, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it contained less crude protein than declared on the label and a portion of the article contained more fiber than so declared.

On October 8, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $75.

M. L. Wilson, *Acting Secretary of Agriculture.*

24196. Misbranding of canned cut green beans and canned pork and beans. U. S. v. The Smith Canning Co. Plea of guilty. Fine, $28. (F. & D. no. 31497. Sample nos. 41940–A, 42028–A.)

This case was based on interstate shipments of short-weight canned goods.

On December 3, 1934, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Smith Canning Co., a corporation, Clearfield, Utah, alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about May 4, 1933, from the State of Utah into the State of Idaho, of a quantity of canned cut green beans which were misbranded. The information further charged that the defendant company on or about August 1, 1932, sold and delivered to the Western States Grocery Co., Salt Lake City, Utah, under a guaranty that the product was not misbranded in violation of the Food and Drugs Act, a quantity of canned pork and beans; that on April 27, 1933, a quantity of the said pork and beans in the identical condition as when so sold and delivered, was shipped in interstate commerce from the State of Utah into the State of Wyoming, by the Western States Grocery Co.; and that the article was misbranded in violation of the Food and Drugs Act as amended. The articles were labeled in part: "Smith Brand Fancy Cut Green Beans Net Contents 11 Ozs. [or "Dinnerette Brand Pork and Beans * * * Contents 16 Ozs."] Smith Canning Co. Clearfield, Utah."

The articles were alleged to be misbranded in that the statements "Contents 11 Ozs.", with respect to the canned cut green beans, and "Contents 16 Ozs.", with respect to the canned pork and beans, borne on the labels, were false and misleading, and for the further reason that the articles were labeled so as to deceive and mislead the purchaser, since the cans contained less than so declared. Misbranding was alleged for the further reason that the articles were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 11, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $28.

M. L. Wilson, *Acting Secretary of Agriculture.*

24197. Adulteration and misbranding of butter. U. S. v. The Cudahy Packing Company of Nebraska. Plea of guilty. Fine, $27. (F. & D. no. 31526. Sample no. 23139–A.)

This case was based on an interstate shipment of butter that was deficient in milk fat and short weight.

On September 15, 1934, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Cudahy Packing Company of Nebraska, a corporation, trading at Salt Lake City, Utah, alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about May 9, 1933, from the State of Utah into the State of Nevada of a quantity of butter which was adulterated and misbranded. The article was labeled in part: "Sunlight Pasteurized Creamery Butter One Pound Net Sunlight The Cudahy Packing Co. General Offices Chicago Distributors."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by the act of Congress of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the statements, "Butter" and "One Pound Net", borne on the package, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statements represented that the article was butter, a product which should contain not less than 80 percent by weight of milk fat, and that each of the packages contained 1 pound net thereof; whereas it did not contain 80 percent by weight of milk fat but did contain a less amount and each of the packages contained less than 1 pound net of the said article. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On March 16, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $27.

M. L. Wilson, *Acting Secretary of Agriculture.*

24198. Adulteration of dried apples. U. S. v. 150 Bags of Dried Apples. Default decree of condemnation and destruction. (F. & D. no. 32019. Sample no. 42555–A.)

This case involved an interstate shipment of dried apples which were found to be in part insect-infested, decomposed, and dirty.

On February 21, 1934, the United States attorney for the Middle District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 150 bags of dried apples at Nashville, Tenn., alleging that the article had been shipped in interstate commerce on or about January 11, 1934, by S. V. Tomlinson, from North Wilkesboro, N. C., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy and decomposed vegetable substance.

On February 12, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24199. Adulteration of frozen eggs. U. S. v. The Fairmont Creamery Co. Plea of nolo contendere. Fine, $100. (F. & D. no. 32092. Sample no. 26998–A.)

This case was based on an interstate shipment of frozen eggs which were found to be in part decomposed.

On April 18, 1934, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Fairmont Creamery Co., a corporation trading at Dodge City, Kans., alleging shipment by said company in violation of the Food and Drugs Act, on or about January 9, 1933, from the State of Kansas into the State of Ohio, of a quantity of frozen eggs which were adulterated. The article was contained in cans labeled in part: "Fancy Fairmont's Frozen Fresh Eggs * * * Packed by The Fairmont Creamery Co. General Offices-Omaha Nebr. Whole Eggs."

The article was alleged to be adulterated in that it consisted in part of a decomposed and putrid animal substance.

On March 12, 1935, a plea of nolo contendere was entered on behalf of the defendant company and the court imposed a fine of $100.

M. L. Wilson, *Acting Secretary of Agriculture.*

24200. Adulteration of butter. U. S. v. National Butter Company of Iowa. Plea of guilty. Fine, $50 and costs. (F. & D. no. 32099. Sample no. 40684–A.)

This case was based on an interstate shipment of butter that contained less than 80 percent by weight of milk fat.

On October 31, 1934, the United States attorney for the Northern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the National Butter Company of Iowa, a corporation, Dubuque, Iowa, alleging shipment by said company in violation of the Food and Drugs Act, on or about June 27, 1933, from the State of Iowa into the State of Michigan, of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product

which should contain not less than 80 percent by weight of milk fat as prescribed by the act of Congress of March 4, 1923, which the article purported to be.

On December 6, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $50 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

24201. Misbranding of sirup. U. S. v. James T. Mary. Plea of guilty. Defendant placed on probation. (F. & D. no. 32139. Sample nos. 46525–A, 46526–A, 46527–A.)

Sample cans of sirup taken from the shipments involved in this case were found to contain less than 3 quarts 8 fluid ounces, the volume declared on the label.

On July 9, 1934, the United States attorney for the Western District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against James T. Mary, Lafayette, La., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about April 24, April 26, and June 22, 1933, from the State of Louisiana into the State of Texas of quantities of sirup which was misbranded. A portion of the article was labeled: "Contains 3 Quarts—8 Fl. Ozs. Larrapin Brand Syrup * * * Packed for Gordon, Sewall & Co., Inc. Houston, Texas. Distributors." The remainder of the article was labeled: "Old Mary's Brand Louisiana Pure Cane Syrup * * * 3 Qts., 8 Fld. Ozs. James T. Mary * * * Lafayette, La."

The article was alleged to be misbranded in that the statements, "Contains 3 Quarts—8 Fl. Ozs." and "3 Qts., 8 Fld. Oz.", borne on the labels, were false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the cans did not contain 3 quarts 8 fluid ounces, but did contain a less amount. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On January 8, 1935, a plea of guilty was entered and the court placed the defendant on probation for five years.

M. L. WILSON, *Acting Secretary of Agriculture.*

24202. Adulteration and misbranding of grapefruit juice. U. S. v. H. C. Sullivan (H. C. Sullivan Cannery). Plea of nolo contendere. Fine, $25. (F. & D. no. 32145. Sample no. 36199–A.)

This case was based on an interstate shipment of canned grapefruit juice which was found to contain added sugar and to be short volume.

On January 8, 1935, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court an information against H. C. Sullivan, trading as H. C. Sullivan Cannery, Frostproof, Fla., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about March 24, 1933, from the State of Florida into the State of Utah, of a quantity of canned grapefruit juice which was adulterated and misbranded. The article was labeled in part: "Scowcroft's Blue Pine Brand * * * Contents ½ Pint Packed Expressly For John Scowcroft & Sons Company Ogden, Utah."

The article was alleged to be adulterated in that grapefruit juice which contained added sugar had been substituted in whole or in part for grapefruit juice, which the article purported to be.

Misbranding was alleged for the reason that the statements, "grapefruit juice" and "Contents ½ Pint", were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statements represented that the article consisted wholly of grapefruit juice, and that the cans contained one half pint thereof; whereas it did not consist wholly of grapefruit juice, but consisted in part of added sugar, and each of the said cans contained less than one half pint. Misbranding was alleged for the further reason that the article was offered for sale and was sold under the distinctive name of another article, namely, grapefruit juice. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On January 22, 1935, the defendant entered a plea of nolo contendere and the court imposed a fine of $25.

M. L. WILSON, *Acting Secretary of Agriculture.*

24203. Adulteration of butter. U. S. v. H. Arthur Hewett and Joseph H. Eckel (Durant Ice Cream & Creamery Co.). Plea of guilty. Fine, $50. (F. & D. no. 32181. Sample nos. 40310–A, 40338–A.)

This case was based on interstate shipments of butter which contained less than 80 percent of milk fat.

On September 13, 1934, the United States attorney for the Eastern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against H. Arthur Hewett and Joseph H. Eckel, co-partners, trading as the Durant Ice Cream & Creamery Co., Durant, Okla., alleging shipment by said defendants in violation of the Food and Drugs Act, on or about July 26 and August 9, 1933, from the State of Oklahoma into the State of Illinois, of quantities of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by the act of March 4, 1923, which the article purported to be.

On September 13, 1934, a plea of guilty was entered to the information and the court imposed a fine of $50.

M. L. Wilson, *Acting Secretary of Agriculture.*

24204. Adulteration and misbranding of butter. U. S. v. Wilmer E. Scott. Plea of guilty. Fine, $25. (F. & D. no. 32187. Sample no. 54368–A.)

This case was based on an interstate shipment of butter that was deficient in milk fat and which failed to bear on the packages a statement of the quantity of the contents.

On July 18, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Wilmer E. Scott, Philadelphia, Pa., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about December 13, 1933, from the State of Pennsylvania into the State of Maryland of a quantity of butter which was adulterated and misbranded.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat as prescribed by the act of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 29, 1935, the defendant entered a plea of guilty and the court imposed a fine of $25.

M. L. Wilson, *Acting Secretary of Agriculture.*

24205. Adulteration of butter. U. S. v. Rosebud Creamery Co. Plea of guilty. Fine, $25. (F. & D. no. 32192. Sample no. 40370–A.)

This case was based on an interstate shipment of butter, samples of which were found to contain less than 80 percent of milk fat.

On November 30, 1934, the United States attorney for the District of South Dakota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Rosebud Creamery Co., a corporation, Gregory, S. Dak., alleging shipment by said company in violation of the Food and Drugs Act, on or about September 9, 1933, from the State of South Dakota into the State of Illinois, of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product deficient in milk fat, since it contained less than 80 percent by weight of milk fat, had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat as required by the act of Congress of March 4, 1923, which the article purported to be.

On January 12, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $25.

M. L. Wilson, *Acting Secretary of Agriculture.*

24206. Adulteration of butter. U. S. v. Hopkinton Cooperative Creamery Association. Plea of guilty. Fine, $50 and costs. (F. & D. no. 32196. Sample no. 51920–A.)

This case was based on an interstate shipment of butter that contained less than 80 percent of milk fat.

On October 10, 1934, the United States attorney for the Northern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district

court an information against the Hopkinton Cooperative Creamery Association, a corporation, Hopkinton, Iowa, alleging shipment by said company in violation of the Food and Drugs Act, on or about November 18, 1933, from the State of Iowa into the State of New York, of a quantity of butter that was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923, which the article purported to be.

On December 4, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $50 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

24207. Adulteration and misbranding of butter. U. S. v. The Cudahy Packing Co. of Nebraska. Plea of guilty. Fine, $27. (F. & D. no. 32218. Sample no. 23767–A.)

This case was based on an interstate shipment of butter that was deficient in milk fat and short weight.

On July 14, 1934, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Cudahy Packing Co. of Nebraska, a corporation trading at North Salt Lake, Utah, alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about May 25, 1933, from the State of Utah into the State of Nevada, of a quantity of butter which was adulterated and misbranded. The article was labeled in part: "Sunlight Pasteurized Creamery Butter One Pound Net Sunlight The Cudahy Packing Co. * * * Chicago Distributors."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by the act of Congress of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the statements, "Butter" and "One Pound Net", borne on the label, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statement represented that it was butter, namely, a product which should contain not less than 80 percent by weight of milk fat, and that each package contained 1 pound net; whereas it did not contain 80 percent by weight of milk fat and each of said packages contained less than 1 pound net. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 16, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $27.

M. L. WILSON, *Acting Secretary of Agriculture.*

24208. Misbranding of shortening and cottonseed meal. U. S. v. Texas Refining Co. Plea of guilty. Fine, $425. (F. & D. no. 32227. Sample nos. 19850–A, 52351–A, 52356–A, 57881–A, 63651–A, 63793–A, 69053–A.)

This case was based on interstate shipments of shortening which was short weight, and a shipment of cottonseed meal that contained less protein than declared on the label.

On October 26, 1934, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Texas Refining Co., a corporation, Greenville, Tex., alleging shipment by said company in violation of the Food and Drugs Act as amended, between the dates of September 25 and December 5, 1933, from the State of Texas into the States of Arkansas and Oklahoma, of quantities of shortening which was misbranded, and on or about August 19, 1933, from the State of Texas into the State of Kansas of a quantity of cottonseed meal which was misbranded. A portion of the shortening was labeled: "Net Wt. 4 lbs. [or "One Lb."] * * * Cream O'Cotton * * * Manufactured and Guaranteed by Texas Refining Co. Greenville, Texas." The remainder of the shortening was labeled: "4 Pounds Net Weight Blue Bonnet Shortening * * * Texas Refining Co. Greenville, Texas." The cottonseed meal was labeled: "Interstate Brand 43% Protein Cotton Seed Cake & Meal Prime Quality Guaranteed Analysis * * * Protein, not less than 43% * * * Made For Interstate Feed Company Fort Worth–Texas."

The shortening was alleged to be misbranded in that the statements, "Net Wt. 4 lbs.", "Net Wt. One Lb.", and "4 Pounds Net Weight", borne on the labels, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since each of a large number of the packages examined contained less than the amount declared on the label. Misbranding of the shortening was alleged for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

Misbranding of the cottonseed meal was alleged for the reason that the statements, "43% Protein * * * Guaranteed Analysis * * * Protein, not less than 43%", borne on the label, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it contained less than 43 percent of protein.

On February 7, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $425.

M. L. Wilson, *Acting Secretary of Agriculture.*

24209. Adulteration of dried peaches. U. S. v. 50 Boxes of Dried Peaches. Product released under bond conditioned that it be relabeled. (F. & D. no. 32294. Sample no. 69027–A.)

This case involved a shipment of dried peaches that contained excessive moisture.

On March 10, 1934, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 boxes of dried peaches at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about February 3, 1934, by the Consolidated Packing Co., from Fresno, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Box) "Calgold Cling Peaches"; (bricks) "Calgold Dehydrated Peaches * * * Distributed by Fred Wolferman, Inc., Kansas City, Mo."

The article was alleged to be adulterated in that a product containing excessive moisture had been substituted for dried peaches.

On October 15, 1934, Meridian, Ltd., a California corporation, having appeared as claimant and having admitted the allegations of the libel, judgment was entered ordering that the product be released under bond, conditioned that it be relabeled to show the moisture content.

M. L. Wilson, *Acting Secretary of Agriculture.*

24210. Adulteration and misbranding of prepared mustard. U. S. v. 3½ Cases of Prepared Mustard. Default decree of condemnation and destruction. (F. & D. no. 32436. Sample no. 68535–A.)

This case involved an interstate shipment of prepared mustard which was found to contain added mustard bran and to be short weight.

On March 28, 1934, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 3½ cases of prepared mustard at Eufaula, Ala., alleging that the article had been shipped in interstate commerce on or about January 15, 1934, by the Mid-West Food Packers, Inc., from Fowlerton, Ind., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Golden Sun Brand Pure Prepared Mustard Contents 2 lb. Made by Mid-West Food Packers, Inc. Fowlerton, Ind."

The article was alleged to be adulterated in that mustard bran had been substituted in part for the said article.

Misbranding was alleged for the reason that the statements, "Prepared Mustard Contents 2 lb.", were false and misleading and tended to deceive and mislead the purchaser; for the further reason that the article was offered for sale under the distinctive name of another article; and for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On October 19, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24211. Misbranding of canned mixed vegetables. U. S. v. 154 Cases of Canned Mixed Vegetables. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 32669. Sample no. 67794–A.)

This case involved an interstate shipment of canned vegetables which were labeled to convey the impression that the varieties pictured on the label were present in appreciable amounts. Examination showed that a large proportion of the product consisted of two vegetables, carrots and potatoes, and that certain vegetables depicted on the label were entirely absent or present in relatively small amounts.

On May 2, 1934, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 154 cases of canned mixed vegetables at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about February 16, 1934, by the Fairmont Canning Co., from Fairmont, Minn., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Gerbro Brand Vegetables * * * Gerber Bros. Distributors, Brooklyn, N. Y."

The article was alleged to be misbranded in that the design on the label, a vignette which included prominent pictorial representations of string beans, lima beans, asparagus, peas, carrots, and a pimiento, was false and misleading and tended to deceive and mislead the purchaser since approximately 60 percent of the product consisted of carrots and potatoes, and it contained no string beans or asparagus and but a small amount of peas and lima beans.

On January 21, 1935, Gerber Bros., Brooklyn, N. Y., claimants, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

24212. Adulteration of tomato paste. U. S. v. 67 Cases of Tomato Paste. Default decree of condemnation and destruction. (F. & D. no. 32845. Sample no. 69759–A.)

This case involved an interstate shipment of tomato paste which was found to contain excessive mold.

On June 12, 1934, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 67 cases of canned tomato paste at Brooklyn, N. Y., consigned by the Italian Food Products Co., Inc., Long Beach, Calif., alleging that the article had been shipped in interstate commerce on or about December 4, 1933, and January 31, 1934, from Long Beach, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Campania Brand Concentrated Tomato Paste * * * Packed by Italian Food Products Co. Inc. Long Beach, California."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On February 11, 1935, no claimant appearing, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24213. Misbranding of bread. U. S. v. Continental Baking Co. Plea of nolo contendere. Fine, $30. (F. & D. no. 32888. Sample nos. 1743–A, 49033–A, 49037–A.)

This case was based on interstate shipments of bread which was misbranded because of failure to declare the true quantity of the contents, sample loaves having been found to contain less than the declared weight.

On August 17, 1934, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Continental Baking Co., a corporation trading at Spokane, Wash., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about May 25, 1932, and September 12 and September 21, 1933, from the State of Washington into the State of Idaho, of quantities of bread which was misbranded. The article was labeled in part: "Wonder-Cut Bread Weight 1½ Lbs. * * * Continental Baking Company."

The article was alleged to be misbranded in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on

the outside of the package, since the quantity of the contents was less than the declared weight.

On January 31, 1935, a plea of nolo contendere was entered on behalf of the defendant company and the court imposed a fine of $30.

M. L. Wilson, *Acting Secretary of Agriculture.*

24214. Misbranding of canned orange juice. U. S. v. Henry A. Baker. Plea of nolo contendere. Fine, $50. (F. & D. no. 32892. Sample nos. 42004–A, 42005–A.)

This case was based on interstate shipments of canned orange juice which was found to be short volume.

On October 31, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Henry A. Baker, trading at Anaheim, Calif., alleging shipment by said defendant in violation of the Food and Drugs Act on or about December 3 and December 22, 1932, from the State of California into the State of Colorado, of quantities of canned orange juice which was misbranded. The article was labeled in part: "Hanson's 100% Pure California Fruit Juices * * * Hanson & Choate Products Company Los Angeles, California Net Contents ½ Gallon [or "1 Gallon" or "100 oz." or 6½ pints"]."

The article was alleged to be misbranded in that the statements regarding the quantity of the article contained in the variously sized cans, namely, "Net Contents ½ Gallon", "Net Contents 1 Gallon", "100 oz.", and "Net Contents 6½ Pints", respectively, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the cans contained less than the declared quantity.

On January 7, 1935, the defendant entered a plea of nolo contendere, and the court imposed a fine of $50.

M. L. Wilson, *Acting Secretary of Agriculture.*

24215. Misbranding of canned cherries. U. S. v. 130 Cases of Canned Cherries. Product released under bond to be relabeled. (F. & D. no. 32980. Sample no. 76602–A.)

This case involved an interstate shipment of canned cherries which fell below the standard prescribed by the Secretary of Agriculture for such products, because of the presence of excessive pits, and which was not labeled to indicate that it was substandard.

On June 20, 1934, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 130 cases of canned cherries at Richmond, Va., alleging that the article had been shipped in interstate commerce on or about November 8, 1933, and April 6, 1934, by the Geneva Preserving Co., from Geneva, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Monogram Red Sour Pitted Cherries * * * Water Pack Packed for The Staples Grocery Co. Inc. Richmond, Va."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food because it contained an excessive number of pits, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On January 25, 1935, the Geneva Preserving Co., Geneva, N. Y., having appeared as claimant for the property, judgment was entered ordering that the product be released to the claimant under bond, conditioned that it be relabeled in order to comply with the law.

M. L. Wilson, *Acting Secretary of Agriculture.*

24216. Misbranding of salad oil. U. S. v. 300 Cans of Salad Oil. Consent decree of condemnation. Product released under bond. (F. & D. no. 33024. Sample no. 70433–A.)

This case involved a product consisting essentially of cottonseed oil with a slight taste of olive oil, which was labeled to convey the impression that it was olive oil of foreign origin. Sample cans taken from the shipment were found to contain less than the declared volume.

On June 28, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 300 cans of salad oil at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about May 28, 1934, by Angelo D. Polizzi, from Rochester, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "La Feroce Brand Vegetable Salad Oil Slightly Flavored with Pure Olive Oil A Compound Net Contents One Gallon."

The article was alleged to be misbranded in that the impression conveyed by the predominatingly green color of the label and the prominence given to the legend "Pure Olive Oil", and the statement on the label, "Net Contents One Gallon", were false and misleading, and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so, and for the further reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was incorrect.

On February 18, 1935, Joseph Polizzi, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be repacked in properly labeled cans or otherwise disposed of in a manner approved by this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

24217. Misbranding of black pepper. U. S. v. 40 Cases of Black Pepper. Default decree of condemnation and destruction. (F. & D. no. 33031. Sample no. 68547–A.)

Sample packages of black pepper taken from the shipment involved in this case were found to contain less than 3 ounces, the labeled weight.

On June 29, 1934, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40 cases of black pepper at Dothan, Ala., alleging that the article had been shipped in interstate commerce, on or about February 7 and April 2, 1934, by the Cumberland Manufacturing Co., Inc., from Nashville, Tenn., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Can) "Windsor Brand Black Pepper Three Oz. Net Weight Packed by Cumberland Mfg. Co., Inc., Nashville, Tenn."

The article was alleged to be misbranded in that the statement on the label, "Three Oz. Net Weight", was false and misleading and tended to deceive and mislead the purchaser, and in that it was food in package form and the label failed to bear a statement of the quantity of the contents since the statement made was incorrect.

On December 6, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24218. Misbranding of canned tomatoes. U. S. v. 148 Cases of Canned Tomatoes. Decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 33057. Sample nos. 68400–A, 77427–A.)

This case involved an interstate shipment of canned tomatoes which fell below the standard promulgated by the Secretary of Agriculture for such products because of lack of color, and which was not labeled to indicate that it was substandard.

On July 9, 1934, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 148 cases of canned tomatoes at Brockton, Mass., alleging that the article had been shipped in interstate commerce on or about May 15, 1934, by C. W. Baker & Sons, from Sanford, Fla., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Eckerson's Tomatoes Hand Packed * * * Packed by Eckerson Fruit Canners, Inc. at Sanford, Fla. Executive Office Jersey City, N. J."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food because of lack of color, and its package or label failed to bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On January 4, 1935, George N. Friedlander, of Everett, Mass., trading as the Eastern Sales Co., having appeared as claimant for the property and having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the labels be obliterated or destroyed and that new labels be placed on each can clearly describing the product.

M. L. Wilson, *Acting Secretary of Agriculture.*

24219. Misbranding of peanut butter. U. S. v. 245½ Cases of Peanut Butter. Decree of condemnation. Product released under bond. (F. & D. no. 33305. Sample nos. 3727-B, 3730-B.)

This case involved an interstate shipment of peanut butter which was short weight.

On August 28, 1934, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 245½ cases of peanut butter at Minneapolis, Minn., alleging that the article had been shipped in interstate commerce on or about August 1, 1934, by the Martin Peanut Products Corporation, Chicago, Ill., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Two Pounds Net Weight Economy Peanut Butter Manufactured by Martin Peanut Products Corporation—Chicago—New York."

The article was alleged to be misbranded in that the statement on the label, "Two Pounds Net Weight", was false and misleading and tended to deceive and mislead the purchaser, since the jars contained less than the declared net weight. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On December 5, 1934, the Martin Peanut Products Corporation having appeared as claimant, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it should not be disposed of contrary to the provisions of the Federal Food and Drugs Act and all other laws.

M. L. Wilson, *Acting Secretary of Agriculture.*

24220. Adulteration of blueberries. U. S. v. 94 Crates of Blueberries. Default decree of condemnation and destruction. (F. & D. no. 33348. Sample no. 5662-B.)

This case involved an interstate shipment of blueberries which were found to contain maggots.

On or about August 3, 1934, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 94 crates of blueberries at Rochester, N. Y., alleging that the article had been shipped in interstate commerce on or about August 1, 1934, by Michael McGurl, from Jessup, Pa., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid vegetable substance.

On January 30, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24221. Misbranding of peanut butter. U. S. v. 25 Cases of Peanut Butter. Default decree of condemnation and destruction. (F. & D. no. 33424. Sample no. 13238-B.)

Sample jars of peanut butter taken from the shipment involved in this case were found to contain less than 1 pound, the weight declared on the label.

On September 7, 1934, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 cases of peanut butter at Racine, Wis., alleging that the article had been shipped in interstate commerce on or about August 20, 1934, by the Martin Peanut Products Corporation, from Chicago, Ill., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "One Pound Net Weight Economy Peanut Butter Manufactured by Martin Peanut Products Corpn Chicago New York."

The article was alleged to be misbranded in that the statement on the label, "One Pound Net Weight", was false and misleading and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the label, since the statement made was incorrect.

On January 31, 1935, no claimant appearing, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24222. Misbranding of brandy. U. S. v. 4¾ Cases, et al., of Brandy. Decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 33435. Sample nos. 7151–B, 7152–B, 7153–B.)

This case involved interstate shipments of three lots of brandy which was found to contain a smaller proportion of alcohol than declared on the label. Two of the lots were found to be short in volume.

On or about September 12, 1934, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 13¼ cases of brandy at New Haven, Conn., alleging that the article had been shipped in interstate commerce on or about June 7 and June 8, 1934, by the Old Prescription Co., Inc., from Jersey City, N. J., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Belle of France Brand Straight Brandy 90 Proof An American Product Old Prescription Co. Jersey City, N. J. Contents 25/32 of a Quart [or "Contents ¾ of 1 Pint" or "Contents 1 Pint"]."

The article was alleged to be misbranded in that the statement "90 Proof" appearing on the label, was false and misleading and tended to deceive and mislead the purchaser, since the alcohol contained was found to be less than 90 proof. Misbranding was alleged with respect to portions of the product for the further reason that the statements on the labels, "Contents 25/32 of a Quart" and "Contents 1 Pint", were false and misleading and tended to deceive and mislead the purchaser, since the bottles were short of the declared volume. Misbranding of the said lots that were short volume was alleged for the further reason that the article was food in package form and the quantity of its contents was not plainly and conspicuously marked on the outside of the package since the statements made were incorrect.

On January 5, 1935, the Old Prescription Co., Inc., having appeared as claimant for the property, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

24223. Adulteration of packing stock butter. U. S. v. 1 Barrel and 1 Pail of Packing Stock Butter. Default decree of destruction. (F. & D. no. 33490. Sample no. 3653–B.)

This case involved an interstate shipment of packing stock butter which was found to contain filth.

On August 30, 1934, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1 barrel and 1 pail of packing stock butter at St. Paul, Minn., alleging that the article had been shipped in interstate commerce on or about May 28, 1934, by the Fargo Creamery & Produce Co., from Fargo, N. Dak., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On January 18, 1935, no claimant having appeared, judgment was entered ordering that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24224. Adulteration and misbranding of butter. U. S. v. 600 Cases of Roll Butter. Product ordered released under bond. (F. & D. no. 33491 Sample no. 2441–B.)

This case involved an interstate shipment of butter that was deficient in milk fat and was short weight.

On August 22, 1934, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 600 cases of roll butter at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about August 13, 1934, by the Southern Butter Co., from Muskogee, Okla., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Parchment wrapper) "1 Lb. Net Weight When Packed"; (shipping carton) "Butter 30 Lbs. Net Wt. Rolls 1 Lb. Country Roll."

The article was alleged to be adulterated in that a substance deficient in butterfat had been mixed and packed with it so as to reduce or lower or injuriously affect its quality and strength, and had been substituted wholly or in part for the article.

Misbranding was alleged for the reason that the statements, (parchment wrapper) "1 Lb. Net Weight When Packed" and (shipping carton) "Butter 30 Lbs. Net Wt. Rolls," and "1 Lb. Country Roll", were false and misleading and deceived and misled the purchaser, and for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was not correct.

On September 28, 1934, the Southern Butter Co. having appeared as claimant for the property, judgment was entered ordering that the product be released under bond, conditioned that it be reworked and otherwise made to comply with the law, under the supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

24225. Adulteration of butter. U. S. v. 2 Carloads of Butter. Portion of product released. Remainder condemned and destroyed. (F. & D. no. 33494. Sample no. 2840–B.)

This case involved an interstate shipment of butter which was found to be in part moldy.

On August 21, 1934, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two carloads of butter at Cincinnati, Ohio, consigned June 19, 1934, alleging that the article had been shipped in interstate commerce by Schlosser Bros., from Indianapolis, Ind., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On December 7, 1934, Schlosser Bros. having appeared as claimant for the property, judgment was entered ordering that a part of the butter be released as not adulterated; that a part be condemned as adulterated and destroyed or disposed of for technical purposes, and that the remainder be held by the United States marshal for further testing. On February 26, 1935, judgment was entered nunc pro tunc as of December 11, 1934, finding that the butter in the custody of the marshal was in part adulterated and in part not adulterated, and ordering destruction of the former and release of the latter.

M. L. Wilson, *Acting Secretary of Agriculture.*

24226. Adulteration of canned tomato juice. U. S. v. 91 Cases of Canned Tomato Juice. Default decree of condemnation and destruction. (F. & D. no. 33509. Sample no. 10525–B.)

This case involved an interstate shipment of canned tomato juice which was found to be partially decomposed.

On September 18, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 91 cases of canned tomato juice at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about July 26, 1934, by Edgar F. Hurff, from Swedesboro, N. J., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Hurff Brand Tomato Juice * * * Packed by Edgar F. Hurff Swedesboro, N. J."

The article was alleged to be adulterated in that it consisted in part of a decomposed vegetable substance.

On January 9, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24227. Adulteration and misbranding of canned shrimp. U. S. v. 99 Cases of Canned Shrimp. Default decree of forfeiture and destruction. (F. & D. no. 33520. Sample no. 4020–B.)

This case involved an interstate shipment of canned shrimp that was found to be in part decomposed. The article was also short-weight and slack-filled.

On September 24, 1934, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 cases of canned shrimp at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about September 14, 1934, by Henry J. Pitre, from New Orleans, La., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Bayou Rose Brand Shrimp Wet Pack 5¾ Ozs. Net Weight Packed by Henry J. Pitre, Cut Off, La."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

Misbranding was alleged for the reason that the statement on the label, "5 3/4 Ozs. Net Weight", was false and misleading and tended to deceive and mislead the purchaser, since the cans were short of the declared net weight; for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect; and for the further reason that it was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture for such canned food, because of excessive headspace, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On January 14, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24228. Misbranding of salad oil. U. S. v. 9 Cans and 13 Cans of Salad Oil. Default decree of condemnation and destruction. (F. & D. no. 33614. Sample no. 6774–B.)

This case involved a product consisting essentially of domestic cottonseed oil with little or no olive oil present, which was labeled to convey the impression that it was olive oil of foreign origin.

On October 4, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 cans of salad oil at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about August 8, 1934, by the Delizia Olive Oil Co., Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The shipment included two brands of oil. One brand was disposed of before seizure could be accomplished. The portion of the product seized was labeled in part: "La Deliziosa Brand."

The article was alleged to be misbranded in that the statements, "Olio Finissimo Guarantito La Deliziosa Brand", and the design of an olive branch appearing on the label, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the product was imported olive oil; whereas it consisted essentially of cottonseed oil of domestic origin. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so.

On January 28, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24229. Adulteration of canned shrimp. U. S. v. 694 Cases of Canned Shrimp. Portion of product ordered condemned and destroyed; remainder released under bond (F. & D. no. 33619. Sample no. 1760–B.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On October 3, 1934, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 694 cases of canned shrimp at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about August 24, 1934, by the Deer Island Fish &

Oyster Co., from Bayou Labatre, Ala., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Gulfs Best Brand Shrimp Dry Pack * * * packed by Deer Island Fish and Oyster Company, Biloxi, Miss."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On February 14, 1935, the case having come on before the court on a stipulation between the United States attorney and the agent for the owner, judgment was entered ordering that a part of the product be condemned and destroyed, and that the remainder be released under bond to insure payment of court costs and all other charges.

M. L. Wilson, *Acting Secretary of Agriculture.*

24230. Misbranding of salad oil. U. S. v. 92 Cans, et al., of Salad Oil. Default decrees of condemnation and destruction. (F. & D. nos. 33623, 33625, 34221. Sample nos. 6761–B, 6768–B, 17610–B.)

This case involved an interstate shipment of a product consisting of domestic cottonseed oil which was labeled to convey the impression that it was olive oil of foreign origin.

On October 4 and October 31, 1934, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 250 cans of salad oil at Newark, N. J., alleging that the article had been shipped in interstate commerce, in part on or about May 21, 1934, and in part on or about July 9, 1934, by the Uddo Taormina Corporation, from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Polly Brand Superfine Pure Oil."

The article was alleged to be misbranded in that the statements, namely, "Olio Sopraffino Puro" and "Superfine Pure Oil", and the design of an olive branch, with respect to portions of the product, the statements "Olio Sopraffino Puro" and "Olio Sopraffino Puro Raccomandato Per Uso Da Tavola E Cucina", and the design of an olive branch and leaves, with respect to a portion of the product, which said statements and designs were borne on the labels, together with the green color of the can containing the article, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the article was imported olive oil; whereas it consisted of domestic cottonseed oil. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so.

On January 28, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24231. Adulteration of canned shrimp. U. S. v. 329 Cases and 800 Cases of Canned Shrimp. Consent decree of condemnation. Product released under bond. (F. & D. no. 33629. Sample nos. 4037–B, 11365–B.)

This case involved a shipment of canned shrimp which was found to be in part decomposed.

On October 10, 1934, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,129 cases of canned shrimp at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about September 23, 1934, by the Biloxi Canning & Packing Co., from New Orleans, La., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled: "Big Value Brand Shrimp Dry Pack * * * Distributed by Pacific States Canning Co. San Francisco, Calif." The remainder was labeled: "Biloxi Brand Quality Shrimp Dry Pack * * * Packed by Biloxi Canning & Packing Co. Biloxi, Miss."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On December 22, 1934, the Biloxi Canning & Packing Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be disposed of in compliance with the law. The decomposed portion was segregated and destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24232. Misbranding of salad oil. U. S. v. 112 Cans and 45 Cans of Salad Oil. Default decrees of condemnation. Portion of product destroyed. Remainder delivered to charitable or relief organization. (F. & D. nos. 33632, 34236. Sample nos. 6766–B, 17095–B.)

These cases involved a product consisting of domestic cottonseed oil which was labeled to convey the impression that it was olive oil.

On October 4 and November 1, 1934, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 157 cans of salad oil in part at Newark, N. J., and in part at Elizabeth, N. J., alleging that the article had been shipped in interstate commerce on or about December 1, 1933, and August 3, 1934, by the Frey & Horgan Corporation, from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Nonna Mia Brand Pure Vegetable Salad Oil * * * Frey & Horgan Corp. New York."

The article was alleged to be misbranded in that the statements on the labels, namely, "Nonna Mia Olio" and "Nonna Mia Brand Oil" with respect to a portion, and "Nonna Mia", "Marca Nonna Mia Olio Insuperabile Per Salse, Insulata, Fritture, E Tutti Gli Usi Per Tavola E Cucina", with respect to the remainder, together with the green color of the panels of the can, were misleading and tended to deceive and mislead the purchaser since they created the impression that the article was Italian olive oil; whereas it was domestic cottonseed oil. Misbranding was alleged with respect to a portion of the article for the further reason that it purported to be a foreign product when not so.

On January 28 and February 6, 1935, no claimant having appeared, judgments of condemnation were entered. One lot was ordered destroyed and the remaining lot was ordered delivered to a charitable or relief organization.

M. L. Wilson, *Acting Secretary of Agriculture.*

24233. Adulteration and misbranding of canned shrimp. U. S. v. 99 Cases of Canned Shrimp. Default decree of condemnation and destruction. (F. & D. no. 33648. Sample no. 1765–B.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On October 8, 1934, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 cases of canned shrimp at Oakland, Calif., alleging that the article had been shipped in interstate commerce on or about August 25, 1934, by Lipscomb Bros., from New Orleans, La., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Gomeco Brand Shrimp dry pack * * * packed by Golden Meadow Packing Co., Inc., Golden Meadow, La."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

Misbranding was alleged in that the statement, "The Shrimp and liquor contained in this can are absolutely free from any adulteration * * * and are guaranteed to pass any state or national pure food law inspection", was false and misleading and tended to deceive and mislead the purchaser.

On Februry 20, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24234. Adulteration of butter. U. S. v. 28 Cases of Roll Butter. Decree of condemnation. Product released under bond to be reworked. (F. & D. no. 33669. Sample no. 13504–B.)

This case involved an interstate shipment of butter that contained less than 80 percent of milk fat.

On September 5, 1934, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 28 cases of roll butter at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about August 22, 1934, by the Davis-Cleaver Produce Co., from Quincy, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Parchment wrapper) "Fancy Roll Butter Ferndale Country Roll * * * Davis-Cleaver Produce Co., Quincy, Illinois."

The article was alleged to be adulterated in that a substance deficient in butterfat had been mixed and packed with it so as to reduce or lower or injuriously affect its quality and strength, and had been substituted wholly or in part for the said article.

On October 8, 1934, the Davis-Cleaver Produce Co., having appeared as claimant for the property and having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be reworked so that it contain 80 percent or more of butterfat.

M. L. Wilson, *Acting Secretary of Agriculture.*

24235. Adulteration of canned shrimp. U. S. v. 119 Cases of Canned Shrimp. Default decree of condemnation and destruction. (F. & D. no. 33673. Sample no. 14620–B.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On October 10, 1934, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 119 cases of canned shrimp at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about September 12, 1934, by the Atlantic Seafood Packers, Inc., from Savannah, Ga., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sea Island Brand Shrimp * * * Packed by Atlantic Seafood Packers, Inc. Darien, Ga."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On January 21, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24236. Adulteration and misbranding of apples. U. S. v. 181 Bushels and 238 Bushels of Apples. Decree of condemnation and forfeiture. Product released to be relabeled. (F. & D. no. 33691. Sample no. 17849–B.)

This case involved an interstate shipment of apples labeled "U. S. No. 1." Examination showed that they contained excessive grade defects and were not U. S. no. 1 grade.

On October 12, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 419 bushels of apples at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce by O. W. Borden, from Front Royal, Va., on or about October 2, 1934, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Stayman [or "Black Twig"] 1 bu. O. W. Borden, Front Royal, Va. 33539 U. S. No. 1."

The article was alleged to be adulterated in that apples below the grade indicated on the label had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement, "U. S. No. 1", was false and misleading and tended to deceive and mislead the purchaser.

On October 17, 1934, J. Earle Roberts, having appeared as claimant for the property, judgment of condemnation was entered and it was ordered that the product be released and relabeled under the supervision of this Department and that claimant pay costs of the proceedings.

M. L. Wilson, *Acting Secretary of Agriculture.*

24237. Misbranding of canned tomato juice. U. S. v. Empire State Pickling Co. Plea of guilty. Fine, $45. (F. & D. no. 33780. Sample nos. 38665–A, 39257–A, 40460–A.)

This case was based on interstate shipments of canned tomato juice which was misbranded because the labels failed to bear a proper declaration of the quantity of the contents, examination having shown that the cans contained less than declared.

On November 12, 1934, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Empire State Pickling Co., a corporation, Phelps, N. Y., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about April 1, July 5, and August 30, 1933, from the State of New York into the States of California, Florida,

and Michigan, respectively, of quantities of canned tomato juice which was misbranded. The article was labeled in part: "Silver Floss Brand Tomato Juice Contents 1 Pt. 4 Fl. Oz. * * * Packed at Phelps, N. Y. By Empire State Pickling Co."

The article was alleged to be misbranded in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the cans contained less than 1 pint 4 fluid ounces.

On January 8, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $45.

M. L. Wilson, *Acting Secretary of Agriculture.*

24238. Adulteration and misbranding of mayonnaise. U. S. v. Louisiana Baking Corporation. Plea of guilty. Fine, $100. (F. & D. no. 33816. Sample nos. 18223–A, 18224–A, 39451–A, 39460–A, 39461–A, 50770–A, 50771–A, 50772–A.)

This case was based on various shipments of a product, all of which was labeled "Mayonnaise." Examination showed that most of the lots consisted of salad dressing containing approximately one half the amount of oil that mayonnaise should contain, with added water, starch, and yellow color present. All lots were misbranded through failure to declare the quantity of the contents, since the statement was not plain and conspicuous, and in some lots the actual contents were less than declared.

On November 9, 1934, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Louisiana Baking Corporation, trading at New Orleans, La., alleging shipment by said company in violation of the Food and Drugs Act as amended, between the dates of September 22 and October 24, 1933, from the State of Louisiana into the State of Alabama, of quantities of alleged mayonnaise which was adulterated and misbranded, and on or about February 9 and February 24, 1934, from the State of Louisiana into the States of Georgia and South Carolina, of quantities of mayonnaise which was misbranded. The article was labeled in part: "Betty Lou * * * Mayonnaise." The labels also bore the inconspicuous statements: "Net Weight Not Less Than 9 Ozs. [or "8 Ozs." or "3 Ozs."]."

The information alleged that the several lots shipped into Alabama were adulterated in that added starch and water had been mixed and packed with the article, so as to reduce and lower and injuriously affect its quality and strength; in that a product containing less oil than mayonnaise should contain, and containing added starch and water and artificial yellow color had been substituted for mayonnaise, which the article purported to be; and in that it had been mixed and colored in a manner whereby inferiority was concealed.

The information alleged that the said lots were also misbranded in that the statement "Mayonnaise", on the jar labels, was false and misleading; in that it was labeled so as to deceive and mislead the purchaser since it was not mayonnaise; and in that it was offered for sale under the distinctive name of another article. The said lots were alleged to be further misbranded and the product in the two other shipments was also alleged to be misbranded in that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since it was marked in very small type, and in some lots the quantity was less than the amount declared. Misbranding was alleged with respect to one of the lots for the reason that the statement, "Net Weight Not Less Than 9 Ozs.", borne on the jar label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the jars contained less than 9 ounces of the article.

On December 10, 1934, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of $100.

M. L. Wilson, *Acting Secretary of Agriculture.*

24239. Adulteration and misbranding of cane and maple sirup. U. S. v. J. Stromeyer Co. Plea of nolo contendere. Judgment of guilty. Fine, $25. (F. & D. no. 33820. Sample nos. 58663–A, 58726–A.)

This case was based on an interstate shipment of sirup which was labeled as containing 15 percent of maple sirup, but which contained no maple sirup. Sample cans taken from the shipment were found to contain less than one half pint, the declared volume.

On November 21, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the J. Stromeyer Co., Philadelphia, Pa., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about September 19, 1933, from the State of Pennsylvania into the State of New Jersey, of a quantity of alleged cane and maple sirup which was adulterated and misbranded. The article was labeled in part: "Walt Whitman Brand * * * Contents ½ Pint Composed of 85% Granulated Sugar Syrup and 15% Pure Maple Syrup Cane and Maple Syrup Specially Packed for Camden Grocers Exchange Camden, N.J."

The article was alleged to be adulterated in that a product containing no maple sirup had been substituted for the said article.

Misbranding was alleged for the reason that the statements, "Contents ½ Pint", "Maple Syrup", and "15% Pure Maple Syrup", borne on the labels, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the bottles contained less than one half pint and since the article contained no maple sirup. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On January 23, 1935, the defendant company entered a plea of nolo contendere, was adjudged guilty, and was sentenced to pay a fine of $25.

M. L. Wilson, *Acting Secretary of Agriculture.*

24240. Adulteration and misbranding of prepared mustard. U. S. v. Vernon D. Price Vinegar Co. Plea of nolo contendere. Fine, $25 and costs. (F. & D. no. 33821. Sample nos. 40192-A, 40193-A, 40197-A.)

This case involved interstate shipment of three lots of prepared mustard. Two of the lots contained added mustard bran; the remaining lot consisted principally of starch, mustard bran, and turmeric. One lot was also found to be short weight.

On January 4, 1935, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Vernon D. Price Vinegar Co., a corporation trading at Pittsburgh, Pa., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about February 21 and July 10, 1933, from the State of Pennsylvania into the State of West Virginia, of a quantity of prepared mustard which was adulterated and misbranded. The article was labeled in part: (Jars) "Price's Crown * * * Quality Pure Net Weight 8 oz [or "Net Weight 28 ozs." or "Net Weight 1 Pint"] Prepared Mustard * * * Guaranteed by Vernon D. Price Vinegar Co. Pittsburgh, Pa." On one of the lots over the net weight declaration "8 oz." there had been written with pen the statement "6 oz.", both statements being visible.

The information charged adulteration of portions of the article in that mustard bran had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength, and had been substituted in part for prepared mustard which the article purported to be. Adulteration was alleged with respect to the remainder of the article for the reason that imitation prepared mustard consisting principally of starch, mustard bran, and turmeric had been substituted for prepared mustard, which the article purported to be.

Misbranding was alleged for the reason that the statement "Prepared Mustard", with respect to the product in all lots, and the statement, "Net Weight 8 oz. [or "6 oz."]", with respect to the product in one lot, borne on the labels, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it was not prepared mustard, and since the jars labeled "8 oz." or "6 oz." contained less than 6 ounces. Misbranding of the lot labeled "8 oz." or "6 oz." was alleged for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statements were incorrect. Misbranding was further alleged in that all lots were offered for sale under the distinctive name of another article, namely, prepared mustard, and one of the lots was also an imitation of another article, namely, prepared mustard.

On January 15, 1935, a plea of nolo contendere was entered on behalf of the defendant company and the court imposed a fine of $25 and costs.

M. L. Wilson, *Acting Secretary of Agriculture.*

24241. Adulteration of evaporated apple chops. U. S. v. LeVerne Bacon. Plea of guilty. Sentence, $25 fine; payment suspended. (F. & D. no. 33831. Sample no. 50557–A.)

This case was based on an interstate shipment of evaporated apple chops which were found to be in part insect-infested, decomposed, and dirty. Examination further showed the presence of arsenic and lead in amounts that might have rendered the article injurious to health.

On December 10, 1934, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against LeVerne Bacon, Medina, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about January 3, 1934, from the State of New York into the State of Kentucky of a quantity of evaporated apple chops billed as evaporated apples, which were adulterated.

The article was alleged to be adulterated in that it consisted in part of a filthy and decomposed vegetable substance, and in that it contained added poisonous and deleterious ingredients, namely, arsenic and lead, in amounts which might have rendered it injurious to health.

On March 15, 1935, the defendant entered a plea of guilty and was sentenced to pay a fine of $25. Payment of the fine was ordered suspended.

M. L. Wilson, *Acting Secretary of Agriculture.*

24242. Adulteration and misbranding of Cherri-Berri. U. S. v. Vinelands Products Co. Plea of guilty. Fine, $10. (F. & D. no. 33832. Sample no. 58741–A.)

This case was based on an interstate shipment of a product known as "Cherri-Berri" which consisted of grapes artificially flavored and colored in imitation of maraschino cherries, and which contained undeclared added sodium benzoate.

On November 22, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Vinelands Products Co., a corporation, Vineland, N. J., alleging shipment by said company in violation of the Food and Drugs Act, on or about January 17, 1934, from the State of New Jersey into the State of Pennsylvania, of a quantity of Cherri-Berri which was adulterated and misbranded. The article was labeled in part: "Large Cherri-Berri For Dipping Brandle & Smith Co. 5th & Bristol Sts Phila. Pa."

The article was alleged to be adulterated in that grapes artificially flavored and colored in imitation of maraschino cherries and containing undeclared added sodium benzoate, had been substituted for maraschino cherries, which the article purported to be.

Misbranding was alleged for the reason that the statement, "Large Cherri-Berri For Dipping", borne on the label, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statement represented that the article was large maraschino cherries used for dipping in chocolate to produce chocolate-covered cherries; whereas it was not as so represented but consisted of grapes artificially flavored and colored in imitation of maraschino cherries, and contained undeclared added sodium benzoate. Misbranding was alleged for the further reason that the article was an imitation of another article, namely, maraschino cherries, and for the further reason that it was offered for sale under the distinctive name of another article.

On January 11, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $10.

M. L. Wilson, *Acting Secretary of Agriculture.*

24243. Misbranding of cottonseed meal. U. S. v. Planters Cotton Oil Co. of Dallas. Confession of judgment. Fine, $100. (F. & D. no. 33839. Sample no. 63705–A.)

This case was based on an interstate shipment of cottonseed meal that contained less than 43 percent of protein, the amount declared on the label.

On November 13, 1934, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Planters Cotton Oil Co. of Dallas, a corporation, Dallas, Tex., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about January 9, 1934, from the State of Texas into the State of Kansas, of a quantity of cottonseed meal which was misbranded. The article was labeled in part: "'Golden Rod' 43% Protein Cottonseed Cake or Meal Prime Quality Manufactured By or For Planters

Cotton Oil Company, of Dallas * * * Guaranteed Analysis Crude Protein, not less than 43.00 Per Cent."

The article was alleged to be misbranded in that the statements, "43.00 Per Cent Protein" and "Guaranteed Analysis Crude Protein, not less than 43.00 Per Cent", borne on the tags, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it contained less than 43 percent of protein.

On February 1, 1935, the defendant company through counsel confessed judgment and the court imposed a fine of $100.

M. L. WILSON, *Acting Secretary of Agriculture.*

24244. Adulteration and misbranding of olive oil. U. S. v. Costa Deocharis, Theodoris S. Doris, and Costas Theodoris (Italian-Greek Importing Co.). Pleas of nolo contendere. Costas Theodoris fined $25; sentence suspended as to remaining defendants. (F. & D. no. 33845. Sample nos. 68759-A, 68760-A.)

This case was based on an interstate shipment of a product consisting of a mixture of domestic cottonseed oil and olive oil which was represented to be pure imported olive oil.

On November 16, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Costa Deocharis, Theodoris S. Doris, and Costas Theodoris, a partnership trading as the Italian-Greek Importing Co., Philadelphia, Pa., alleging shipment by said defendants in violation of the Food and Drugs Act, on or about April 2, 1934, from the State of Pennsylvania into the State of New Jersey of a quantity of olive oil which was adulterated and misbranded. The article was labeled in part: "Imported From Italy. Imported Olio Puro D'Oliva Extra Fino."

The article was alleged to be adulterated in that a substance, namely, domestic cottonseed oil had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality, and in that a product consisting largely of domestic cottonseed oil had been substituted for pure olive oil, which the article purported to be.

Misbranding was alleged for the reason that the statements, "Imported from Italy", Imported Olio Puro D'Oliva Extra Fino Marca La Patria Lucca", and the statements in both English and Italian "This pure olive oil branded La Patria is preferred everywhere. It is digestive and of exquisite taste. It is the best for condiments. Doctors Prescribe It For Medicinal Purposes because it is made entirely from selected ripe olives", together with designs of olive branches bearing olives and pictures of a crowned queen, shield, and crown, borne on the can labels, were false and misleading and for the further reason that the article was labeled so as to deceive and mislead the purchaser since it was not pure olive oil imported from Italy and was not made entirely from selected ripe olives but was a product composed largely of domestic cottonseed oil. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, namely, olive oil.

On January 23, 1935, the defendant, Costas Deocharis, entered a plea of nolo contendere and the court imposed a fine of $25. On June 17, 1935, pleas of nolo contendere were entered by defendants Theodoris S. Doris and Costa Theodoris and sentence was suspended as to said defendants.

M. L. WILSON, *Acting Secretary of Agriculture.*

24245. Misbranding of salad oil. U. S. v. C. F. Simonin's Sons, Inc. Plea of nolo contendere. Judgment of guilty. Sentence suspended. (F. & D. no. 33856. Sample no. 52130-A.)

This case was based on interstate shipments of salad oil which was short volume.

On November 21, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against C. F. Simonin's Sons, Inc., trading at Philadelphia, Pa., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about November 14, 1933, from the State of Pennsylvania into the State of New Jersey, of a quantity of salad oil that was misbranded. The article was labeled in part: "Olio Cameo Brand * * * Contents One Gallon."

The article was alleged to be misbranded in that the statement, "Contents One Gallon", borne on the can label, was false and misleading, and for the

further reason that it was labeled so as to deceive and mislead the purchaser, since each of a large number of the cans examined contained less than 1 gallon of the article. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On January 29, 1935, a plea of nolo contendere was entered and the defendant was found guilty. Sentence was suspended and the defendant was placed on 30 days' probation.

M. L. WILSON, *Acting Secretary of Agriculture.*

24246. Adulteration of cabbage. U. S. v. Charles E. Gibson, Inc. Plea of guilty. Fine, $10. (F. & D. no. 33861. Sample nos. 62487–A, 62489–A.)

Examination of the cabbage involved in this case showed the presence of arsenic and lead in amounts that might have rendered it injurious to health.

On November 24, 1934, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Charles E. Gibson, Inc., Meggett, S. C., alleging shipment by said company in violation of the Food and Drugs Act, on or about May 16, 1934, from the State of South Carolina into the State of Maryland, of quantities of cabbage which was adulterated. The article was labeled in part: "Gibson Brand Grown and Packed by Chas. M. Gibson Co. Meggett, S. C."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, namely, arsenic and lead, in an amount which might have rendered it injurious to health.

On January 23, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $10.

M. L. WILSON, *Acting Secretary of Agriculture.*

24247. Adulteration and misbranding of butter. U. S. v. Bridgeman-Russell Co. Plea of guilty. Fine, $50. (F. & D. no. 33862. Sample nos. 68224–A, 68238–A.)

This case was based on interstate shipments of butter that contained less than 80 percent of milk fat.

On December 4, 1934, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Bridgeman-Russell Co., a corporation, Duluth, Minn., alleging shipment by said company in violation of the Food and Drugs Act, on or about March 7 and March 14, 1934, from the State of Minnesota into the State of Rhode Island, of quantities of butter which was adulterated and misbranded. The article was labeled in part: (Case) "Ferncrest * * * Creamery Butter Cooper & Sisson Inc. Providence, R. I."; (carton) "Ferncrest Creamery * * * Butter."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat as required by the act of Congress of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the statement "butter", borne on the case and carton, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser since the said statement represented that the article was butter, a product containing not less than 80 percent by weight of milk fat; whereas it was not butter since it contained less than 80 percent by weight of milk fat.

On December 4, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $50.

M. L. WILSON, *Acting Secretary of Agriculture.*

24248. Adulteration and misbranding of chocolate dates and pine patties. U. S. v. S. Fisher & Co. Plea of guilty. Fine, $100. (F. & D. no. 33864. Sample nos. 51690–A, 67606–A, 67607–A, 67608–A, 67623–A, 68887–A.)

This case was based on interstate shipments of products which were represented to be chocolate-covered dates and chocolate-covered pineapple, respectively. Examination showed that the chocolate covering of both products contained excessive cocoa shells, and that the product represented to be chocolate-covered pineapple consisted of chocolate-covered pineapple cores.

On December 10, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the

district court an information against S. Fisher & Co., a corporation, Hoboken, N. J., alleging shipment by said company in violation of the Food and Drugs Act, on or about February 17, February 21, February 27, and March 6, 1934, from the State of New Jersey into the State of Pennsylvania, of quantities of chocolate-covered dates and pine patties which were adulterated and misbranded. The articles were labeled, variously: "Fisher's * * * Choc. Dates Manufactured by S. Fisher & Co. Inc. Hoboken, N. J."; "Fisher's * * * Pine Patties Manufactured by S. Fisher & Co. Inc. Hoboken, N. J."; "Fisher's Chocolate Covered Dates"; "Fisher's Candies * * * Choc. Pitted Dates Guaranteed by S. Fisher & Co. Inc. Hoboken, New Jersey, U. S. A."

The articles were alleged to be adulterated in that a substance, excess cocoa bean shell, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality, and had been substituted in part for the said articles. Adulteration of the pine patties was alleged for the further reason that a substance, pineapple core, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality, and had been substituted in part for the said article.

Misbranding was alleged for the reason that the statements, "Choc. Dates", "Chocolate Dates", "Pine Patties", and "Choc. Pitted Dates", borne on the labels of the respective products, were false and misleading and for the further reason that the articles were labeled as aforesaid so as to deceive and mislead the purchaser, since the said statements represented that the articles were dates and pineapple covered with chocolate, whereas they were not dates and pineapple covered with chocolate but were dates and pineapple cores covered with a coating containing more cocoa bean shell than chocolate contains.

On January 25, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $100.

M. L. Wilson, *Acting Secretary of Agriculture.*

24249. Adulteration of butter. U. S. v. Arnold Cooperative Creamery Co. Plea of guilty. Fine, $50. (F. & D. no. 33872. Sample no. 6914-B.)

This case involved an interstate shipment of butter that was found to contain less than 80 percent by weight of milk fat.

On December 26, 1934, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Arnold Cooperative Creamery Co., a corporation, Arnold, Nebr., alleging shipment by said company in violation of the Food and Drugs Act on or about July 10, 1934, from the State of Nebraska into the State of New York, of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat as defined by the act of Congress of March 4, 1923, which the article purported to be.

On January 14, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $50.

M. L. Wilson, *Acting Secretary of Agriculture.*

24250. Adulteration of canned prunes, and misbranding of canned pitted cherries. U. S. v. Ray-Maling Co., Inc. Plea of guilty. Fine, $180. (F. & D. no. 33876. Sample nos. 47768-A, 60436-A, 60446-A.)

This case was based on a shipment of canned prunes which were found to be in part decomposed; and a shipment of canned pitted cherries which were short weight and which fell below the standard established by regulation of the Secretary of Agriculture, since they were water-packed and were partially pitted, and were not labeled to indicate that they were partially pitted or properly labeled to show that they were water-packed.

On January 16, 1935, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Ray-Maling Co., Inc., a corporation, Hillsboro, Oreg., alleging shipment by said company on or about February 27, 1934, from the State of Oregon into the State of California of a quantity of canned prunes which were adulterated in violation of the Food and Drugs Act, and on or about February 7, 1934, from the State of Oregon into the State of California of a quantity of canned pitted cherries which were misbranded in violation of said act as amended. The articles were labeled in part, respec-

tively: "Water Fresh Prunes U/L Jacobson Shealy Co. San Francisco, Calif. F. H. Co."; "Newmark Brand Special Extra Packed in Water Pitted Red Cherries Packed for M. A. Newmark & Co. Los Angeles U. S. A. Net Contents 1 Lb. 4 Oz."

The information charged that the canned prunes were adulterated in that they consisted in part of a decomposed vegetable substance.

Misbranding was alleged with respect to the canned pitted cherries for the reason that the statements, "Special Extra Pitted Red Cherries" and "Net Contents 1 Lb. 4 Oz.", borne on the label, were false and misleading, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser since the said statements represented that the article was special extra pitted red cherries and that each of the cans contained 1 pound 4 ounces thereof; whereas it was not special extra pitted red cherries but was partially pitted cherries and the cans contained less than 1 pound 4 ounces. Misbranding of the canned cherries was alleged for the further reason that partially pitted red cherries had been offered for sale under the distinctive name of another article, namely, pitted red cherries, and for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was incorrect. Misbranding of the canned cherries was alleged for the further reason that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, and its package or label did not bear a plain and conspicuous statement prescribed by regulations of this Department, indicating that it fell below such standard.

On January 29, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $180.

M. L. Wilson, *Acting Secretary of Agriculture.*

24251. Misbranding of bread. U. S. v. The Star Baking Co. Plea of guilty. Fine, $40. (F. & D. no. 33884. Sample nos. 03–B, 04–B.)

This case was based on interstate shipments of bread which was found to be short weight.

On December 28, 1934, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Star Baking Co., a corporation, Colorado Springs, Colo., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about July 9, 1934, from the State of Colorado into the State of Kansas, of a quantity of bread which was misbranded. The article was labeled in part: "Town Talk Sliced Bread 18 oz. or Over The Star Baking Company Colorado Springs, Colo."

The article was alleged to be misbranded in that the statement, "18 Oz. or Over", borne on the label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since each of a large number of loaves examined contained less than 18 ounces. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since it was not stated in terms of the largest unit, namely, in pound and ounces, and in that the quantity of the contents was less than 1 pound and 2 ounces.

On January 10, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $40.

M. L. Wilson, *Acting Secretary of Agriculture.*

24252. Misbranding of apple butter. U. S. v. Hulman & Co Plea of guilty. Fine, $50. (F. & D. no. 33906. Sample nos. 68613–A, 68614–A.)

This case was based on interstate shipments of apple butter which was found to be short weight.

On January 21, 1935, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Hulman & Co., a corporation, Terre Haute, Ind., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about February 10 and February 14, 1934, from the State of Indiana into the State of Illinois of quantities of apple butter which was misbranded. A portion of the article was labeled: (Can) "Farmers Pride Brand Contents 4 Lb. 6 Oz. Avd. * * * Pure Apple Butter Hulman &

Co. Manufacturers Terre Haute, Ind." The remainder was labeled: (Jar) "2 Lbs. Avd. Crystal Brand Apple Butter Manufactured By Hulman & Co. Terre Haute, Ind."

The article was alleged to be misbranded in that the statements, "Contents 4 Lb. 6 Oz. Avd." and "Net Contents 4 Lbs. 6 Oz. Avd.", with respect to a portion of the product, and the statement, "2 Lbs. Avd.", with respect to the remainder, borne on the can and jar labels, were false and misleading and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser since the cans and jars contained less than declared. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since the statements made were incorrect.

On January 28, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of $50.

M. L. Wilson, *Acting Secretary of Agriculture.*

24253. Adulteration of candy. U. S. v. Irving Levine, Morris Singer, Romaine Candy Corporation, and Irving Candy Co. Pleas of guilty. Defendants Morris Singer and Irving Levine fined $104 each; sentence suspended as to remaining defendants. (F. & D. no. 33917. Sample no. 58613–A.)

This case was based on interstate shipments of candy that contained alcohol.

On January 11, 1935, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Irving Levine and Morris Singer, the Romaine Candy Corporation, a corporation, and the Irving Candy Co., trading at Brooklyn, N. Y., alleging shipment by said defendants in violation of the Food and Drugs Act, between the dates of December 21, 1933, and January 16, 1934, from the State of New York into the State of Pennsylvania of quantities of candy which was adulterated.

The article was alleged to be adulterated under the provisions of the act applicable to confectionery in that it contained spirituous liquor.

On January 15, 1935, pleas of guilty were entered by the defendants and the court imposed a fine of $104 against each of the defendants Morris Singer and Irving Levine, and suspended sentence as to the Irving Candy Co. and the Romaine Candy Corporation.

M. L. Wilson, *Acting Secretary of Agriculture.*

24254. Adulteration of canned shrimp. U. S. v. 69 Cases, et al., of Canned Shrimp. Decrees of condemnation. Portion of product destroyed. Remainder released under bond. (F. & D. nos. 34112, 34201, 34202. Sample nos. 10556–B, 10568–B.)

These cases involved interstate shipments of canned shrimp which was found to be in part decomposed.

On October 19 and October 27, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court three libels praying seizure and condemnation of a total of 865 cases of canned shrimp at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about August 24 and September 26, 1934, by Berwick Bay Canneries, Inc., in part from New Orleans, La., and in part from Berwick, La., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled: "Deep C Brand Shrimp Louisiana Oyster & Fish Co. Inc. Berwick, La." The remainder was labeled: "Deep C Brand Shrimp Berwick Bay Canneries, Inc. Berwick, La."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On January 2, 1935, two of the actions involving 796 cases of the product having been consolidated and W. A. Coale & Co., Philadelphia, Pa., having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that the unfit portion be segregated and destroyed.

On January 24, 1935, the claimant having failed to prosecute its claim in the remaining case, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24255. Misbranding of salad oil. U. S. v. 64 Cartons, et al., of Salad Oil. Decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 34117. Sample nos. 4897–B, 4898–B, 4899–B.)

This case involved various interstate shipments of a product consisting of domestic cottonseed oil containing little or no olive oil, which was labeled to convey the impression that it was olive oil.

On or about October 20, 1934, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 156 cartons of salad oil at Baltimore, Md., alleging that the article had been shipped in interstate commerce between the dates of September 1 and October 8, 1934, by the Southern Cotton Oil Co. (Wesson Oil & Snowdrift Sales Co.), from Savannah, Ga., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Angela Mia Brand Olio [or "Carnevale Brand Olio" or "77 Olio"] * * * Wesson Oil & Snowdrift Sales Co. New York."

The article was alleged to be misbranded in the following respects: The prominent statement "Angela Mia * * * Olio", the deep green color of the can suggesting olives, the picture of a woman with black hair and Italian facial characteristics, and the reference to Italian cooking (Cucina All' Italiana) on the label of the Angela Mia brand, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the product was imported olive oil, whereas it was domestic cottonseed oil containing little or no olive oil; in that the prominent word "Olio" the Italian name "Carnevale", the reference to Italian cooking (Cucina All' Italiana), the vignette of a dancer in foreign costume, and two of the Italian national colors (red and green), on the label of the Carnevale brand, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the product was imported olive oil, whereas it was domestic cottonseed oil containing little or no olive oil; the prominent and unqualified word "Olio", which to the consumer of Italian lineage means olive oil, and the reference to Italian cooking ("Cucina All' Italiana") on the label of the "77 Olio", were misleading and tended to deceive and mislead the purchaser, since they created the impression that the product was olive oil, whereas it was domestic cottonseed oil containing little or no olive oil. Misbranding was alleged with respect to the Angela Mia brand and the Carnevale brand for the further reason that the article purported to be a foreign product when not so.

On January 17, 1935, a claim having been entered for the product, judgment of condemnation and forfeiture was entered, and it was ordered that the product be released under bond conditioned that it be relabeled.

M. L. Wilson, *Acting Secretary of Agriculture.*

24256. Adulteration of canned shrimp. U. S. v. 79 Cases, et al., of Canned Shrimp. Default decree of condemnation and destruction. (F. & D. nos. 34158 to 34161, incl. Sample nos. 1786–B to 1789–B, incl.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On October 23, 1934, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 612 cases of canned shrimp at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about September 1, 1934, by L. C. Mays & Co., from New Orleans, La. [packed by J. H. Pelham Co., Pascagoula, Miss.], and charging adulteration in violation of the Food and Drugs Act. The article was labeled variously: "Extra Nice Brand dry pack Shrimp * * * Packed for Smith Lynden and Co., San Francisco, Calif."; "Seamaid Brand Shrimp dry pack * * * L. C. Mays Company distributors, New Orleans, U. S. A."; and "Sea Fresh Brand Shrimp * * * packed by the J. H. Pelham Co., Pascagoula, Miss."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On February 1, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24257. Misbranding of salad oil. U. S. v. 197 Cans of Salad Oil. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 34172. Sample no. 4509–B.)

This case involved a product sold in the District of Columbia, which consisted of domestic cottonseed oil containing little or no olive oil, and which was

labeled to convey the impression that it was imported Italian olive oil. The cans containing the article failed to bear on the label a proper declaration of the quantity of the contents.

On October 25, 1934, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, a libel praying seizure and condemnation of 197 cans of salad oil at Washington, D. C., alleging that the article was being sold and offered for sale in the District of Columbia in possession of A. Litteri, Inc., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Olio Doppia Stella * * * A Blend Finest Vegetable Oil with Pure Olive Oil Contents 1 Gallon more or less * * * Packed by Italian Food Products Corp. of America Trenton, U. S. A. Palermo, Italy."

The article was alleged to be misbranded in that the prominent and unqualified word "Olio", the Italian words "Doppia Stella", and the statements "Double Star Brand Is The Highest Grade Of Oil Combining All * * * Qualities of Olive Oil" and "Packed by Italian Food Products Corp. of America * * * Palermo, Italy", appearing on the label, were misleading and tended to deceive and mislead the purchaser since they created the impression that the article was imported olive oil; whereas it was domestic cottonseed oil containing little or no olive oil. Misbranding was alleged for the further reason that the article purported to be imported Italian olive oil when not so, and for the further reason that it was food in package form and failed to bear a plain statement of the quantity of the contents since the statement "Contents 1 Gallon more or less" is not a plain statement of the contents of the container.

On January 8, 1935, the Italian Food Products Corporation of America, Inc., having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled so as to conform to the requirements of the Federal Food and Drugs Act.

M. L. Wilson, *Acting Secretary of Agriculture.*

24258. Misbranding of salad oil. U. S. v. 223 Cans of Salad Oil. Consent decree of condemnation. Product released under bond to be repacked and relabeled. (F. & D. no. 34184. Sample no. 17075–B.)

This case involved a product consisting of domestic cottonseed oil which was labeled to convey the impression that it was imported olive oil. Sample cans taken from the lot were found to be short volume.

On October 25, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 223 cans of salad oil at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about September 12, 1934, by the Korbro Oil Corporation, from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Oil Silver Star Brand Recommended for the Italian Trade * * * Net Contents One Gallon Korbro Oil Corp. Brooklyn, N. Y."

The article was alleged to be misbranded in that the word "Oil", together with the statement, "Recommended for the Italian Trade", the vignette of a woman in foreign costume, presumably Italian, and the Italian landscape in background, appearing on the label, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the product was imported olive oil; whereas it consisted of domestic cottonseed oil, and this impression was not corrected by the statements on the label, "Pure Salad Oil" and "Pure Vegetable Oil", since these terms are applicable to imported olive oil. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so; for the further reason that the statement on the label, "Net Contents One Gallon", was false and misleading and tended to deceive and mislead the purchaser, since the cans were short of the declared volume; and for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was incorrect.

On January 29, 1935, the Korbro Oil Corporation, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be repacked in properly labeled containers.

M. L. Wilson, *Acting Secretary of Agriculture.*

24259. Misbranding of salad oil. U. S. v. 151 Cans of Salad Oil. Default decree of condemnation and destruction. (F. & D. no. 34185. Sample nos. 17074–B, 17076–B.)

This case involved a product consisting of domestic cottonseed oil which was labeled to convey the impression that it was imported olive oil.

On October 25, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 151 cans of salad oil at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about April 16, 1934, by the Cosmopolitan Oil Products Corp., from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "La Cara Brand A Pure Vegetable Salad Oil * * * Packed by Cosmopolitan Oil Products Corp. Bush Terminal Brooklyn, N. Y."

The article was alleged to be misbranded in that the statements, "La Cara Brand Olio Vegetable Puro * * * La Cara Olio Puro * * * E' Prodotto Dalla Migliore Qualita' D'Olio Vegetale", "La Cara Brand A Pure Vegetable Salad Oil * * * La Cara Salad Oil A Highly Refined Vegetable Oil", and the design of a woman in Italian peasant garb in Italian surroundings, appearing on the label, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the product was imported olive oil; whereas it consisted of domestic cottonseed oil and this impression was not corrected by the statements on the label, "Salad Oil" and "Vegetable Oil", since either of these terms may include olive oil. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so.

On January 30, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24260. Misbranding of salad oil. U. S. v. Nine 1-Gallon Cans, et al., of Salad Oil. Default decrees of condemnation and destruction. (F. & D. nos. 34187, 34223. Sample nos. 17079–B, 17080–B, 17611–B.)

These cases involved a product consisting essentially, if not entirely, of cottonseed oil artificially colored and flavored to simulate the color and flavor of olive oil, and which was labeled to convey the impression that it was olive oil.

On October 25 and October 31, 1934, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 157 gallon cans and 8 half-gallon cans of salad oil at Newark, N. J., alleging that the article had been shipped in interstate commerce in part on or about July 31, 1934, and in part on or about August 31, 1934, by the Hoffman Oil Co., from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Mano Bianca Brand * * * Packed By Hoffman Oil Co. Brooklyn, N. Y."

The article was alleged to be misbranded in that the name, "Olio Mano Bianca", and the statement, "This Oil Is Specially Prepared For The Italian Trade", appearing on the label, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the article was olive oil. Misbranding was alleged for the further reason that the article was an imitation of another article, namely, olive oil, and was not plainly labeled as an imitation. Misbranding was alleged with respect to a portion of the article for the further reason that the statement on the label, "Vegetable Oil", was misleading and tended to deceive and mislead the purchaser, since the term "vegetable oil" includes olive oil.

On January 28, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24261. Misbranding of salad oil. U. S. v. 16 and 6 Cans of Salad Oil. Default decree of condemnation and destruction. (F. & D. no. 34188. Sample nos. 17077–B, 17078–B.)

This case involved a product consisting essentially of domestic cottonseed oil containing little or no olive oil, which was labeled to create the impression that it was imported olive oil.

On October 25, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 cans of salad oil at Newark, N. J., alleging that the article had been shipped in interstate commerce on or

about June 8, 1934, by the Arte Products, Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "One Gallon [or "Half Gallon"] Olio Rima Brand."

The article was alleged to be misbranded in that the statements, "Olio Rima Brand" and "Olio Marca Rima", the designs of olive branches appearing on the labels, and the green color of the cans suggestive of olives, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the product was imported olive oil; whereas it was essentially domestic cottonseed oil containing little or no olive oil, and this impression was not corrected by the subsidiary statements on the labels, (gallon size) "Olive Oil Fifteen Per Cent with Eighty-Five Per Cent of Other Vegetable Oils", and (half-gallon size) "Olive Oil Twenty Per Cent with Eighty Per Cent of Other Vegetable Oils", in view of the marked prominence given to the word "Olio" on the labels. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so.

On January 30, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24262. Adulteration and misbranding of canned shrimp. U. S. v. 98 Cases of Canned Shrimp. Default decree of condemnation and destruction. (F. & D. no. 34192. Sample no. 25508–B.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed. The article was not "superior quality" as stated on the label.

On October 26, 1934, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 98 cases of canned shrimp at Milwaukee, Wis., alleging that the article had been shipped in interstate commerce on or about September 26, 1934, by the Kuluz Bros. Packing Co., Inc., from Biloxi, Miss., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Fresh Gulf Brand Superior Quality Wet Pack Shrimp * * * Packed by Kuluz Bros. Packing Co., Inc. Biloxi, Miss."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

Misbranding was alleged for the reason that the statement on the label, "Superior Quality", was false and misleading and tended to deceive and mislead the purchaser.

On January 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24263. Misbranding of salad oil. U. S. v. 33 Cans and 23 Cans of Salad Oil. Default decrees of condemnation and destruction. (F. & D. nos. 34216, 34217. Sample nos. 17612–B, 17613–B.)

These cases involved a product consisting essentially, if not entirely, of cottonseed oil which was artificially colored and flavored to simulate the color and flavor of olive oil, and which was labeled to convey the impression that it was imported olive oil.

On October 30, 1934, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 56 cans of salad oil at Newark, N. J., alleging that the article had been shipped in interstate commerce, in part on or about March 20, 1934, and in part on or about September 12, 1934, by the Korbro Oil Corporation, from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Paradise Brand Superior Quality Oil * * * Korbro Oil Corp. Brooklyn, N. Y."

The article was alleged to be misbranded in that the statement, "Paradiso Qualita Superiore Olio", together with the design of olive branches bearing leaves and flowers, and the design of the shield of Italy appearing on the label, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the article was imported olive oil; whereas it was not. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so, and for the further reason that it was an imitation of another article and was not labeled with the word "Imitation."

On January 28 and May 17, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24264. Adulteration of canned shrimp. U. S. v. 560 Cases of Canned Shrimp. Consent decree of condemnation. Product released under bond. (F. & D. no. 34226. Sample no. 16333–B.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On November 5, 1934, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 560 cases of canned shrimp at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about October 16, 1934, by the Bay View Packing Co., from Biloxi, Miss., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Can) "B-V-P Brand Selected Shrimp Packed by Bay View Packing Co., Biloxi, Miss."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On January 10, 1935, Bernard Taltavull, trading as the Bay View Packing Co., having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it should not be disposed of contrary to the provisions of the Federal Food and Drugs Act.

M. L. WILSON, *Acting Secretary of Agriculture.*

26265. Adulteration of canned tomato puree. U. S. v. 334 Cases, et al., of Canned Tomato Puree. Default decrees of destruction. (F. & D. nos. 34211, 34228, 34229, 34434. Sample nos. 3297–B, 3556–B, 19616–B, 19646–B.)

These cases involved interstate shipments of canned tomato puree which was found to contain excessive mold.

On October 27, October 31, and November 24, 1934, the United States attorneys for the Western District of Missouri and the Southern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the respective district courts, libels praying seizure and condemnation of 334 cases of tomato puree at Kansas City, Mo., 541 cases of tomato puree at Cincinnati, Ohio, and 234 cases at Hamilton, Ohio, consigned in various shipments on or about September 19, 27, and 29, 1934, alleging that the article had been shipped in interstate commerce by the Dugger-Van Zant Packing Co., from Noblesville, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled, variously: "Pallas Tomato Puree * * * Ridenour-Baker Grocery Co. Distributors Kansas City, Mo."; "Dinner Club Tomato Puree [or "Van Zant's Tomato Puree"] * * * Packed by Dugger-Van Zant Packing Co. Noblesville, Ind."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On December 7, December 18, and December 24, 1934, no claimant having appeared, judgments were entered ordering that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24266. Adulteration of canned shrimp. U. S. v. 24 Cases of Canned Shrimp. Default decree of condemnation and destruction. (F. & D. no. 34231. Sample no. 10767–B.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On November 2, 1934, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 cases of canned shrimp at Boise, Idaho, alleging that the article had been shipped in interstate commerce on or about August 31, 1934, by the Deer Island Fish & Oyster Co., of Bayou LaBatre, Ala., from New Orleans, La., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Gulf's Best Brand * * * Packed by Deer Island Fish & Oyster Co. Biloxi, Miss."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On December 6, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24267. Adulteration of canned tomato puree. U. S. v. 248 Cases of Tomato Puree. Default decree of destruction. (F. & D. no. 34237. Sample no. 19603-B.)

This case involved an interstate shipment of tomato puree which was found to contain excessive mold.

On November 2, 1934, the United States attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 248 cases of tomato puree at Covington, Ky., consigned in various shipments on or about September 15, October 6, and October 17, 1934, by the Henryville Canning Co., from Henryville, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Crystal Springs Brand Tomato Puree * * * Packed by Henryville Canning Co. Inc. Henryville, Ind."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On March 15, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24268. Adulteration of apples. U. S. v. 42 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 34255. Sample no. 24598-B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 8, 1934, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 42 bushels of apples at Marion, Ind., alleging that the article had been shipped in interstate commerce on or about October 3, 1934, by J. R. Bowman, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On March 20, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24269. Adulteration of canned mackerel. U. S. v. 72 48/96 Cases of Canned Mackerel. Default decree of condemnation and destruction. (F. & D. no. 34286. Sample nos. 15116-B, 22233-B.)

This case involved an interstate shipment of canned mackerel which was found to be in part decomposed.

On or about November 19, 1934, the United States attorney for the Middle District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 72 48/96 cases of canned mackerel at Albany, Ga., alleging that the article had been shipped in interstate commerce on or about October 8, 1934, by the Sea Pride Packing Corporation, Ltd., from Terminal Island, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "DeLuxe Brand California Mackerel * * * Linde Packing Corp., Terminal Island."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On January 11, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24270. Adulteration of canned shrimp. U. S. v. 250 Cases and 50 Cases of Canned Shrimp. Default decrees of condemnation and destruction. (F. & D. nos. 34295, 34296. Sample nos. 17915-B, 17916-B.)

These cases involved canned shrimp which was found to be in part decomposed.

On November 5, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed

in the district court libels praying seizure and condemnation of 300 cases of canned shrimp at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce, in part on or about October 2, 1934, in part on or about October 2, 1934, and in part on or about October 9, 1934, by James A. Smith & Co., from Fernandina, Fla., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled: "Smith's Ocean Bloom Brand Shrimp * * * Packed by Jas. A. Smith Shrimp Fisheries Fernandina, Fla." The remainder was labeled: "Asco Brand Fancy Shrimp."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On January 25, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24271. Adulteration of canned shrimp. U. S. v. 200 Cases of Canned Shrimp. Default decree of condemnation and destruction. (F. & D. no. 34299. Sample no. 17918–B.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On November 7, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 cases of canned shrimp at Philadelphia, Pa., alleging that the article has been shipped in interstate commerce on or about September 29, 1934, by Jas. A. Smith & Co., from Fernandina, Fla., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Smith's Ocean Bloom Brand Shrimp Packed by Jas. A. Smith Shrimp Fisheries Fernandina, Florida."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On January 25, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24272. Adulteration of canned shrimp. U. S. v. 5 Cases, et al., of Canned Shrimp. Default decrees of condemnation and destruction. (F. & D. nos. 33695, 34109, 34300, 34580. Sample nos. 6229–B, 6396–B, 17928–B, 22158–B.)

These cases involved interstate shipments of canned shrimp which was found to be in part decomposed.

On October 16, 1934, the United States attorney for the Middle District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 5 cases of canned shrimp at Valdosta, Ga. On October 18 and November 7, 1934, libels were filed against 32 cases of canned shrimp at Wilkes-Barre, Pa., and on December 22, 1934, a libel was filed against 9 cases of canned shrimp at Spartanburg, S. C. It was alleged in the libels that the article had been shipped in interstate commerce between the dates of August 6, 1934, and September 23, 1934, by the Nassau Packing Co., from Jacksonville, Fla., and that it was adulterated in violation of the Food and Drugs Act. A portion of the article was labeled: "Florida Chief Brand Nassau Shrimp * * * Packed by The Nassau Packing Co. S. S. Goffin Jacksonville, Fla." The remainder was labeled: "St Johns Brand Fresh Shrimp * * * The Nassau Sound Packing Co. Nassauville, Fla."

The libels charged that the article was adulterated in that it consisted wholly or in part of a decomposed animal substance.

On January 11, February 20, February 23, and April 13, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24273. Adulteration of canned shrimp. U. S. v. 48 Cases and 49 Cases of Canned Shrimp. Default decrees of condemnation and destruction. (F. & D. nos. 34302, 34303. Sample nos. 14012–B, 14015–B.)

These cases involved interstate shipments of canned shrimp which was found to be in part decomposed.

On or about November 8, 1934, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 97 cases of canned shrimp at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about September 14 and October 16, 1934, by the St. Marys Canning Co., from Kingsland, Ga., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Taylor Brand Shrimp * * * Packed by St. Marys Canning Co. St. Marys, Georgia."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On December 18, 1934, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24274. Adulteration of canned shrimp. U. S. v. 199 Cases of Canned Shrimp. Consent decree of condemnation. Product released under bond for segregation and destruction of decomposed portion. (F. & D. no. 34304. Sample no. 14277-B.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On November 14, 1934, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 199 cases of canned shrimp at Portland, Maine, alleging that the article had been shipped in interstate commerce on or about September 26, 1934, by the Southern Shell Fish Co., Inc., from New Orleans, La., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Ready to Eat Brand Shrimp * * * Packed by Southern Shell Fish Co., Inc. Harvey, La., U. S. A."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On January 28, 1935, the Southern Shell Fish Co., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the decomposed portion be separated therefrom and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24275. Adulteration of tomato puree. U. S. v. 995 Cartons of Tomato Puree. Default decree of condemnation and destruction. (F. & D. no. 34344. Sample no. 17572-B.)

This case involved an interstate shipment of canned tomato puree which was found to contain excessive mold.

On November 13, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 995 cartons, each containing 6 unlabeled cans of tomato puree, at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about October 5, 1934, by the Kemp Food Corporation, from Greenfield, Ind. (manufacturer, Greenfield Packing Co., Greenfield, Ind.), and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On January 19, 1935, no claimant appearing, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24276. Misbranding of salad oil. U. S. v. 400 Cans, et al., of Salad Oil. Consent decree of condemnation. Product released under bond. (F. & D. nos. 34238, 34373. Sample nos. 17093-A, 17112-B.)

These cases involved a product consisting of domestic cottonseed oil, which was labeled to convey the impression that it was imported olive oil.

On November 1 and November 14, 1934, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,020 cans of salad oil, in part at Elizabeth, N. J., and in part at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about July

23 and October 22, 1934, by the Garber Eagle Oil Corporation, from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Pride of the Home Brand [or "Cavalier Brand"] Pure Vegetable Oil Packed By Garber Eagle Oil Corporation Brooklyn, N. Y."

The article was alleged to be misbranded in that the following statements appearing on the labels, (Pride of the Home brand, main panel) "Marca Orgoglio Della Casa Olio Purissimo per insalata, cucina e tavola"; (side panel) "Marca Orgoglio Della Casa Olio Puro per insalata e un delizioso olio vegetale—e ottimo per insalata salse fritture ed in tutti gli altri usi da tavola e cucina", (Cavaliere brand, main panel) "Marca Cavaliere Puro Olio Vegetale per majonnise e insalata il migliore per uso di tavola", (side panel) "Marca Cavaliere Quest' olio vegetale e delizioso puro, adatto specialmente per insalata, salse fritture e tutti gli usi di tavola e cucina", and the picture of a foreign scene on the main panel of the cans of the Cavaliere brand, were misleading and tended to deceive and mislead the purchaser, since they implied that the product was Italian olive oil; whereas it was domestic cottonseed oil. Misbranding was alleged with respect to a portion of the Cavaliere brand for the further reason that it purported to be a foreign product when not so.

On January 31, 1935, the Garber-Eagle Oil Corporation having appeared as claimant and the cases having been consolidated into one cause of action, judgment of condemntion was entered and it was ordered that the product be released under bond, conditioned that it should not be disposed of in violation of the law.

M. L. Wilson, *Acting Secretary of Agriculture.*

24277. Misbranding of canned shrimp. U. S. v. 98 Cases of Canned Shrimp. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 34385. Sample no. 20138–B.)

Sample cans of shrimp taken from the shipment involved in this case were found to contain less than 9 ounces, the weight declared on the label.

On November 16, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 98 cases of canned shrimp at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about September 22, 1934, by Dorgan-McPhillips Packing Corporation, from Mobile, Ala., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Happy Home Brand Shrimp Contents 9 Oz. Metric Equiv. 255 Grams Schwabacher Bro's & Co. Inc. Seattle, Wash. Distributors."

The article was alleged to be misbranded in that the statement on the label, "Contents Nine Oz Metric Equiv. 255 Grams", was false and misleading and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On December 10, 1934, Schwabacher Bros. & Co., Inc., Seattle, Wash., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled to show the actual quantity of the contents.

M. L. Wilson, *Acting Secretary of Agriculture.*

24278. Adulteration of canned shrimp. U. S. v. 25 Cases and 170 Cases of Canned Shrimp. Decree of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. no. 34387. Sample no. 16406–B.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On November 16, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 195 cases of canned shrimp at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about November 8, 1934, by the J. H. Pelham Co., from Pascagoula, Miss., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sea-Fresh Brand Shrimp * * * Packed by The J. H. Pelham Co. Pascagoula, Miss."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On January 23, 1935, Parker T. Frey, trading as the Parker T. Frey Co., Philadelphia, Pa., having appeared as claimant for the property, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the decomposed portion be segregated and destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24279. Misbranding of salad oil. U. S. v. 15 Cans of Salad Oil. Default decree of condemnation and destruction. (F. & D. no. 34389. Sample no. 20729-B.)

This case involved a product consisting essentially of cottonseed oil containing little or no olive oil, which was labeled to convey the impression that it was imported olive oil.

On November 16, 1934, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cans of salad oil at Erie, Pa., alleging that the article had been shipped in interstate commerce on or about October 1, 1934, by the Italian Olive Oil Co., from Jamestown, N. Y., and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the following statements, "La Vergine Brand Finest Quality Oil Lucca", "Qualita Extra Fina Insuperabile Per Tavola, Cucina, Etc.", "Extra Fine Quality Oil Insuperable for Table, Cooking, etc.", the design of an olive tree and a woman holding a jug of green oil suggesting olive oil, and the design of a foreign scene, appearing on the label, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the article was imported olive oil; whereas it was not. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so.

On January 8, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24280. Adulteration of canned mackerel. U. S. v. 5 Cases of Canned Mackerel. Default decree of condemnation and destruction. (F. & D. no. 34425. Sample nos. 22235-B, 22241-B.)

This case involved an interstate shipment of canned mackerel which was found to be in part decomposed.

On November 21, 1934, the United States attorney for the Middle District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 5 cases, each containing 48 cans of mackerel, at Albany, Ga., alleging that the article had been shipped in interstate commerce on or about October 20 and October 22, 1934, by the Seaboard Packing Corporation, from Long Beach, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Dixiland Brand Mackerel * * * Packed by Seaboard Packing Corporation Long Beach, California.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On January 11, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24281. Adulteration and misbranding of Hungarian Style Lekver. U. S. v. 7 Pails and 2 Pails of Hungarian Style Lekver. Default decree of condemnation and destruction. (F. & D. no. 34433. Sample no. 17115-B.)

This case involved a product sold as Hungarian Style Lekver, a fruit butter usually prepared from fresh plums, which was found to consist of a product made from dried prunes, corn sirup, and a small amount of apple chops. The article contained lead in an amount that might have rendered it injurious to health.

On November 23, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven 30-pound pails and two 60-pound pails of Hungarian Style Lekver at Newark, N. J., alleging

that the article had been shipped in interstate commerce on or about August 23, 1934, by the Excelsior Honey Co., from Brooklyn, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Hungarian Style Lekver Ingredients Fruit and Corn Syrup Manufactured by Excelsior Honey Co. Brooklyn, N. Y."

The article was alleged to be adulterated in that a substance containing dried prunes and apple chops had been substituted for a product made of fresh fruit. Adulteration was alleged for the further reason that the article contained an added poisonous and deleterious ingredient, lead, which might have rendered it injurious to health.

Misbranding was alleged for the reason that the statements on the label, "Hungarian Style Lekver * * * Fruit and Corn Syrup", were false and misleading and tended to deceive and mislead the purchaser, since this designation is not applicable to an article made from dried prunes, corn sirup, and apple chops. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article.

On January 28, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24282. Adulteration of butter. U. S. v. 21 Cases of Butter. Default decree of condemnation and forfeiture. (F. & D. no. 34440. Sample no. 4965–B.)

This case involved a shipment of butter, samples of which were found to contain human hair, flies, and other insects, mold, a worm, and other filth.

On November 23, 1934, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, a libel praying seizure and condemnation of 21 cases of butter at Washington, D. C., alleging that the article had been shipped by the Southern Maryland Creamery, from Waldorf, Md., on or about November 16, 1934, and had been transported from the State of Maryland into the District of Columbia, and charging adulteration in violation of the Food and Drug Act. The article was labeled in part: "Blue Ridge Brand Creamery Butter * * * Joseph Atkin Distributor Washington, D. C."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On December 17, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be disposed of by the marshal in such manner as would not violate the provisions of the Federal Food and Drugs Act.

M. L. Wilson, *Acting Secretary of Agriculture.*

24283. Misbranding of salad oil. U. S. v. 25 Cans of Salad Oil. Default decree of condemnation. Product delivered to charitable institutions. (F. & D. no. 34453. Sample no. 21206–B.)

This case involved a product consisting of domestic cottonseed oil containing little or no olive oil, which was labeled to convey the impression that it was Italian olive oil.

On or about December 3, 1934, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of twenty-five 1-gallon cans of salad oil at Meriden, Conn., alleging that the article had been shipped in interstate commerce on or about October 29, 1934, by the Goodman Products Corporation, from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Extra Fine Oil Stella-Alpino Brand * * * Goodman Products Corp. N. Y. City."

The article was alleged to be misbranded in that the following statements and design appearing on the label, "Olio Stella Alpino e il migliore e piu gustaso ed e garantito a qualsiasi analisi chimica", "Composto del ottacinque per cento di olio vegetale e quindici per cento di olio d'oliva Italiano importato", "This oil is specially prepared for the Italian trade", and "Quest' olio e preparato specialmenta per la clientela Italiana", and design of a hunter in foreign costume, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the product was Italian olive oil; whereas it was not, and this impression was not corrected by the relatively inconspicuous statement on the label, "Composed eighty five percent vegetable oil fitteen [sic] percent imported Italian olive oil." Misbranding was alleged for the further reason that the article purported to be a foreign product when not so.

On January 28, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to charitable institutions.

M. L. Wilson, *Acting Secretary of Agriculture.*

24284. Misbranding of salad oil. U. S. v. 15 Cartons and 18 Cartons of Salad Oil. Consent decrees of condemnation. Product delivered to charitable institutions. (F. & D. nos. 34457, 34465. Sample nos. 21211–B, 21238–B.)

These cases involved a product consisting of domestic cottonseed oil which was labeled to convey the impression that it was imported olive oil.

On or about December 3, 1934, the United States attorney for the District of Connecticut, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 33 cartons of salad oil at Hartford, Conn., alleging that the article had been shipped in interstate commerce in various lots on or about July 5 and July 25, and August 14, 1934, by Samuel A. Stone, in part from Brooklyn, N. Y., and in part from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. A portion of the article was labeled: "Olio La Sorella." The remainder was labeled: "Adamo Brand Prime Quality Vegetable Oil * * * Adamo Canning Co. New York." The libel further alleged that the product labeled "Olio La Sorella" had been manufactured by the Venice Importing Co.

The article was alleged to be misbranded in that the following statements appearing in the labeling, namely, "Marca Olio La Sorella", "La Sorella e un olio puro per insalata eccellente per ogni uso di cucina e di tavola", with respect to a portion of the product, and the statements, "Adamo * * * Prima Qualita' Olio Vegetale Puro il migliore per tavola e cucina", "Marca Adamo Olio per salse frittura insalata e qualsiasi uso da tavola e cucina", with respect to the remainder, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the product was Italian olive oil; whereas it was not. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so. Misbranding of the Adamo brand oil was alleged for the further reason that the statement on the can label, "Prime Quality Vegetable Oil", was misleading and tended to mislead the purchaser, since the term is also applicable to olive oil.

On January 28, 1935, no claim for the product having been entered, and Samuel A. Stone, having consented to the entry of decrees, judgments of condemnation were entered and it was ordered that the product be delivered to charitable institutions.

M. L. Wilson, *Acting Secretary of Agriculture.*

24285. Adulteration of canned shrimp. U. S. v. 4 Cases of Canned Shrimp. Default decree of destruction. (F. & D. no. 34461. Sample no. 22242–B.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On December 11, 1934, the United States attorney for the Southern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of four cases of canned shrimp at Dublin, Ga., alleging that the article had been shipped in interstate commerce on or about July 30 and August 6, 1934, by the Cochran Bros. Co., of Dublin, Ga., from Jacksonville, Fla., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Florida Chief Brand Nassau Shrimp * * * Packed by The Nassau Packing Co., S. S. Goffin, Jacksonville, Fla."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On January 8, 1935, no claimant having appeared, judgment was entered ordering that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24286. Misbranding of salad oil. U. S. v. 50 Cases, et al., of Salad Oil. Decrees of condemnation. Portions of product released under bond to be repacked. Remainder delivered to charitable organizations. (F. & D. nos. 34466, 34475 to 24478, incl., 34575, 34576, 34577. Sample nos. 17148–B, 21202–B, 21203–B, 21210–B, 21226–B, 21239–B, 21258–B, 21259–B.)

These cases involved a product which was labeled to convey the impression that it was Italian olive oil, but which consisted essentially of cottonseed oil, or

sunflower oil, or an oil similar to sunflower oil. Examination indicated the presence of a small amount of olive oil in certain lots.

On or about December 3 and December 8, 1934, the United States attorney for the District of Connecticut, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 50 cases, 77¼ cartons, and 55 cans of salad oil in various lots at Hartford, New Haven, and Meriden, Conn., alleging that the article had been shipped in interstate commerce between the dates of May 17 and November 22, 1934, by the Strohmeyer & Arpe Co., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. One lot was labeled: "San Rocco Brand * * * Strohmeyer & Arpe New York Distributors." The remaining lots were labeled: "Olio Caialuna Vera Blend [or "Olio San Rocco"] * * * United Pure Food Co. N. Y. Distributors."

The article was alleged to be misbranded in that the following statements on the label, namely, "Olio Caialuna", "Stella", "Vera Blend", and "Composto Di Quindici Per Cento D'Olio Puro D'Oliva E Di Ottanta Cinque Per Cento D'Olio Vegetale," with respect to the Caialuna brand, and "Olio San Rocco", "Prodotto Genuino", "Pure Vegetable Oil", and "Per insalata per cucinare e per condire", with respect to the San Rocco brand and the picture of a shepherd in foreign garb on the label of the San Rocco brand were misleading and tended to deceive and mislead the purchaser since they created the impression that the product was Italian olive oil; whereas it was not. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so.

Strohmeyer & Arpe Co. filed claims and answers in all cases, with one exception, admitting the allegations of the libels and consenting to the entry of decrees. On January 29, 1935, judgments of condemnation were entered and it was ordered that portions of the product for which claims had been entered be released under bond, conditioned that it be repacked in properly labeled containers. On February 19, 1935, no claim having been entered in the remaining case, judgment of condemnation was entered and it was ordered that the product be delivered to charitable organizations.

M. L. Wilson, *Acting Secretary of Agriculture.*

24287. Adulteration of chestnuts. U. S. v. 10 Barrels of Chestnuts. Default decree of condemnation and destruction. (F. & D. no. 34562. Sample no. 16414–B.)

This case involved an interstate shipment of chestnuts which were found to be in part moldy and insect-damaged.

On December 14, 1934, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 barrels of chestnuts at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about November 14, 1934, by J. P. Descalzi, from New York, N. Y., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy and decomposed vegetable substance.

On January 8, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24288. Adulteration of chestnuts. U. S. v. 19 Barrels of Chestnuts. Default decree of condemnation and destruction. (F. & D. no. 34571. Sample no. 6232–B.)

This case involved a shipment of chestnuts which were found to be in large part wormy and decayed.

On December 19, 1934, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 19 barrels of chestnuts at Tampa, Fla., alleging that the article had been shipped in interstate commerce on or about December 1, 1934, by H. Schnell & Co., from New York, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "G B NO Cavargna and Baggi Esportazione Castagne Marca Cueno New York Italy."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy and decomposed vegetable substance.

On January 21, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24289. Adulteration of figs. U. S. v. 5 Cases of Figs. Default decree of condemnation and destruction. (F. & D. no. 34473. Sample no. 20165–B.)

This case involved an interstate shipment of figs which were found to be in part wormy and moldy.

On December 8, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 5 cases of figs at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about October 13 and October 20, 1934 by Hadley Bros., from San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fancy Calimyrnas Packed By Hadley Brothers Merced Calif."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On January 19, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24290. Adulteration of tullibees. U. S. v. 7 Boxes and 5 Boxes of Tullibees. Default decrees of condemnation and destruction. (F. & D. nos. 34503, 34504. Sample nos. 24889–B, 24890–B.)

These cases involved interstate shipments of tullibees which were infested with worms.

On November 6, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 12 boxes of tullibees at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 31, 1934, by W. E. Dumais, from Warroad, Minn., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Shipper Wm. E. Dumais Address Warroad Minn."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy, decomposed, or putrid animal substance, and in that it consisted of portions of animals unfit for food.

On December 17 and December 20, 1934, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24291. Adulteration of butter. U. S. v. 24 Tubs of Butter. Default decree of condemnation and destruction. (F. & D. no. 34506. Sample no. 25526–B.)

This case involved an interstate shipment of butter which was found to be filthy.

On November 6, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel against 24 tubs of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 29, 1934, by Sjostrum Bros., from Marcus, Iowa, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On December 17, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24292. Adulteration of butter. U. S. v. 3 Tubs of Butter. Default decree of condemnation and destruction. (F. & D. no. 34507. Sample no. 18829–B.)

This case involved an interstate shipment of butter, samples of which were found to contain mold and filth.

On November 17, 1934, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 3 tubs of butter at Cincinnati, Ohio, consigned about November 12, 1934, alleging that the article had been shipped in interstate commerce by Armour Creameries, from Louisville, Ky., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Armour & Co. * * * Cincinnati Ohio."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On December 26, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24293. Adulteration of butter. U. S. v. 2 Cans of Butter. Default decree of condemnation and destruction. (F. & D. no. 34508. Sample no. 4757–B.)

This case involved a shipment of butter that was found to contain cow hairs, rodent hairs, mold, and nondescript filth.

On November 21, 1934, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two cans of butter at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about November 16, 1934, by C. F. Taylor, of Silver Point, Tenn., from Buffalo Valley, Tenn., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Tag) "C. F. Taylor Silver Point, Tenn."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On January 8, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24294. Adulteration of butter. U. S. v. 1 Tub of Butter. Default decree of condemnation and destruction. (F. & D. no. 34509. Sample no. 4756–B.)

This case involved an interstate shipment of butter which was found to contain rodent and cow hairs, mold, and nondescript filth.

On or about November 20, 1934, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one tub of butter at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about November 17, 1934, by F. M. and W. S. Watson, of Beng, N. C., from North Wilkesboro, N. C., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On January 10, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24295. Adulteration of cauliflower. U. S. v. 5 Crates of Cauliflower. Default decree of condemnation and destruction. (F. & D. no. 34523. Sample no. 14596–B.)

Examination of the cauliflower involved in this case showed the presence of arsenic and lead in amounts which might have rendered it injurious to health.

On November 5, 1934, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five crates of cauliflower at Pittsfield, Mass., consigned October 31, 1934, alleging that the article had been shipped in interstate commerce by G. J. Bassakalis from Stottville, N. Y., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On January 14, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24296. Adulteration of tomato catsup. U. S. v. 149 Cases and 54½ Cases of Tomato Catsup. Default decrees of condemnation and destruction. (F. & D. nos. 34527, 34563. Sample nos. 25549–B, 25557–B.)

These cases involved tomato catsup which was found to contain excessive mold.

On December 7 and December 14, 1934, the United States attorney for the Eastern District of Wisconsin, acting upon reports by the Secretary of Agri-

culture, filed in the district court libels praying seizure and condemnation of 203½ cases of tomato catsup at Milwaukee, Wis., alleging that the article had been shipped in interstate commerce on or about September 29, 1934, by the Snider Packing Corporation, from Fairmont, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Snider Catsup * * * Snider Packing Corporation General Office, Rochester, N. Y."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On January 31, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24297. Adulteration of butter. U. S. v. 2 Barrels of Butter. Default decree of condemnation and destruction. (F. & D. no. 34532. Sample nos. 4758–B, 4760–B.)

This case involved an interstate shipment of butter which was found to contain human, cow, and rodent hairs; maggots; portions of small insects; mold; and nondescript filth.

On November 24, 1934, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two barrels of butter at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about November 19, 1934, by the Beasley Produce Exchange, from Roanoke, Va., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On January 8, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24298. Adulteration of butter. U. S. v. 2 Cans of Butter. Default decree of condemnation and destruction. (F. & D. no. 34533. Sample no. 4759–B.)

This case involved a shipment of butter which contained rodent, cow, and human hairs; portions of insects; mold; and nondescript filth.

On or about November 23, 1934, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two cans of butter at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about November 19, 1934, by B. G. Snow, of Dyke, Va., from Charlottesville, Va., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On January 8, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24299. Adulteration of canned peaches. U. S. v. 151 Cases and 34 Cases of Canned Peaches. Default decree of condemnation and destruction. (F. & D. no. 34545. Sample no. 16407–B.)

This case involved an interstate shipment of canned peaches which were found to be in part wormy and worm-eaten.

On December 8, 1934, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 185 cases of canned peaches at Baton Rouge, La., alleging that the article had been shipped in interstate commerce on or about August 1, 1934, by Roberts Bros., Inc., of Baltimore, Md., from Americus, Ga., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Indian Hunter Brand Peaches * * * Below US Standard Good Food Not High Grade Distributed by Roberts Bros Inc Main Office Baltimore Md."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 11, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24300. Adulteration of canned tomato puree. U. S. v. 208 Cases, et al., of Canned Tomato Puree. Default decrees of condemnation and destruction. (F. & D. nos. 34554, 34555, 34561, 34578. Sample nos. 24015–B to 24018–B, incl.)

These cases involved canned tomato puree which was found to contain excessive mold.

On December 12, 13, 17, and 18, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 2,801 cases of canned tomato puree at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce in part on or about October 3, 1934, in the name of the Barker Canning Co., and in part on or about October 20 and November 7, 1934, in the name of the Barker Canning Corporation, from Barker, N. Y., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled: (Can) "Barker Brand [or "Sylvia Brand"] Tomato Puree." The remainder of the article was unlabeled.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On February 1, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24301. Adulteration of ripe olives. U. S. v. 10 Barrels of Ripe Olives. Default decree of condemnation and destruction. (F. & D. no. 34570. Sample no. 16797–B.)

This case involved an interstate shipment of ripe olives which were found to be undergoing active decomposition.

On December 17, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 barrels of ripe olives at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about October 25, 1934, by Alexander B. Stewart, from Exeter, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Olympic Olives Alexander B. Stewart, Exeter, Calif."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On January 21, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24302. Adulteration and misbranding of Champyne Americaine. U. S. v. 5 Bottles, et al., of Champyne Americaine. Decrees of condemnation. Portion of product ordered released under bond. (F. & D. nos. 34582 to 34594, incl., 34676. Sample nos. 4562–B, 4563–B, 4565–B, 4566–B.)

The product involved in these cases consisted of an effervescent alcoholic beverage having the flavor of a fermented apple product which was labeled and bottled in a manner that conveyed the impression that it was champagne.

On December 20 and December 31, 1934, the United States attorney for the District of Columbia, acting upon reports by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, libels praying seizure and condemnation of 156 cases and 104 bottles of Champyne Americaine at Washington, D. C., alleging that the article remained unsold and in the original unbroken packages in various lots in the possession of the Arcade Liquor Shop, Jameson's Wine & Liquor Co., Ritz Wine & Liquor Shop, A. Mostow, Sexton-Rhodes Wine & Liquor Co., Schnider's Wine & Liquor Store, University Market, Manhattan Wine & Liquor Shop, Auerbacks Liquor Shop, Martins Wine & Liquor Shop, M. T. Chaconas, Eig's Liquor Store, Shepherd Park Wine & Liquor Co., and Heidsik Distributing Corporation, Inc., of Washington, D. C., and was being sold and offered for sale in the District of Columbia and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "'The Connoisseurs Choice' Champyne Americaine by Carlenes, Ltd. Semi Dry * * * Carlenes' Imperial * * * California Vineyards Company Chicago New York Los Angeles."

The article was alleged to be adulterated in that an effervescent alcoholic beverage having the flavor of a fermented apple product had been substituted for champagne.

Misbranding was alleged for the reason that the statement appearing on the shoulder label, "Champyne Americaine", was false and misleading and tended to deceive and mislead the purchaser since the product was not champagne; for the further reason that the design on the main bottle label depicting a medieval walled city and the typical champagne bottle of thick glass with the pushed-up bottom and champagne-style wired-in cork stopper, were misleading and tended to deceive and mislead the purchaser when used in connection with an effervescent alcoholic beverage having the flavor of a fermented apple product, and which was not champagne; and for the further reason that the article was offered for sale under the distinctive name of another article.

On January 16, 1935, the cases, with one exception, were terminated by the entry of default decrees ordering the product condemned and disposed of in a manner which would not violate the Federal Food and Drugs Act. On March 21, 1935, the Heidsik Distributing Co. Inc., having filed a claim for 47½ cases seized under the remaining libel, judgment of condemnation was entered and it was ordered that the said 47½ cases of the product be released to the claimant under bond, conditioned that it be relabeled in a manner approved by this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

24303. Adulteration of frozen mixed eggs. U. S. v. 395 Cans of Frozen Mixed Eggs. Consent decree of condemnation. Product released under bond for segregation and destruction of decomposed portion. (F. & D. no. 34601. Sample no. 7391-B.)

This case involved an interstate shipment of frozen mixed eggs which were found to be in part decomposed.

On December 29, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 395 cans of frozen mixed eggs at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about March 13, 1934, by Krasno Quality Egg Co., from Milwaukee, Wis., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On February 8, 1935, Theodore Aaron, New York, N. Y., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the decomposed portion be separated therefrom and destroyed or denatured.

M. L. WILSON, *Acting Secretary of Agriculture.*

24304. Adulteration of apples. U. S. v. 292 Bushels of Apples. Consent decree of condemnation. Product released under bond, conditioned that deleterious substances be removed. (F. & D. no. 34658. Sample no. 25701-B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On or about November 3, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 292 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 26, 1934, by Leroy N. Markham Co., from Bangor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Leroy N. Markham Bangor Mich Stark."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On January 30, 1935, the Leroy N. Markham Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the deleterious substances be removed by peeling or washing under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

24305. Adulteration of frozen shrimp. U. S. v. 3,000 Pounds of Frozen Shrimp. Default decree of destruction. (F. & D. no. 34671. Sample no. 15677–B.)

This case involved an interstate shipment of frozen shrimp which was found to be in part decomposed.

On December 22, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 3,000 pounds of frozen shrimp at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about December 15, 1934, by M. B. Matthews, from Port Lavaca, Tex., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On January 5, 1935, no claimant having appeared, judgment was entered ordering that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24306. Misbranding of canned cherries. U. S. v. 100 Cases of Canned Cherries. Decree of condemnation. Product released under bond for relabeling. (F. & D. no. 34677. Sample no. 20457–B.)

This case involved an interstate shipment of canned cherries which fell below the standard established by this Department because of the presence of excessive pits, and which were not labeled to indicate that they were substandard.

On December 27, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 cases of cherries at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about December 18, 1934, by the Ray-Maling Co., from Woodburn, Oreg., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Black and White Brand Water Pack Red Sour Pitted Cherries * * * Haas-Baruch & Co., Los Angeles, Distributors."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On January 11, 1935, the Ray-Maling Co., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

24307. Adulteration of froxen mixed eggs. U. S. v. 550 Cans of Frozen Mixed Eggs. Consent decree of condemnation. Product released under bond, conditioned that decomposed portion be destroyed or denatured. (F. & D. no. 34680. Sample no. 7392–B.)

This case involved a shipment of frozen mixed eggs which were found to be in part decomposed.

On January 2, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 550 cans of frozen mixed eggs at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about August 3, 1934, by the Selby Poultry Co., from Webster City, Iowa, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On January 17, 1935, Chas. H. Nolte, Inc., New York, N. Y., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the decomposed portion be separated thereform and destroyed or denatured.

M. L. Wilson, *Acting Secretary of Agriculture.*

24308. Adulteration of broccoli. U. S. v. 16 Crates, et al., of Broccoli. Default decree of condemnation and destruction. (F. & D. nos. 34791, 34792, 34793. Sample no. 23715-B.)

Examination of the broccoli covered by these cases showed the presence of arsenic, fluorine, and lead in amounts that might have rendered it injurious to health.

On December 15, 1934, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 90 crates of broccoli at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about December 1, 1934, by the Texas Vegetable Union, from Crystal City, Tex., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Crown—Grown and Packed by Texas Vegetable Union—Crystal City, Texas."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic, fluorine, and lead, which might have rendered it harmful to health.

On January 5, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24309. Adulteration of apples. U. S. v. 225 Boxes of Apples. Decree of condemnation. Product released under bond. (F. & D. no. 34794. Sample no. 12444-B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On December 15, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 225 boxes of apples at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about December 13, 1934, by W. Scott, from Provo, Utah, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous ingredients, arsenic and lead, which might have rendered it injurious to health.

On December 18, 1934, a claimant having appeared and admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be brought into conformity with the Food and Drugs Act, under the supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

24310. Adulteration of apples. U. S. v. 145 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 34804. Sample no. 24685-B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 22, 1934, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 145 bushels of Grimes Golden apples at Richmond, Ind., alleging that the article had been shipped in interstate commerce on or about October 17, 1934, by Walter Kuhlman, from Lawrence, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered the use of said article harmful.

On December 22, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24311. Adulteration of butter. U. S. v. 13 Tubs of Butter. Default decree of condemnation and destruction. (F. & D. no. 34891. Sample no. 19076-B.)

This case involved an interstate shipment of butter that was found to contain filth.

On December 14, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 13 tubs of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 13, 1934, by J. Morrell & Co., from Sioux Falls, S. Dak., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On January 16, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24312. Adulteration of whitefish. U. S. v. 54 Boxes of Whitefish. Default decree of condemnation and destruction. (F. & D. no. 34892. Sample nos. 1974–B, 1975–B.)

This case involved an interstate shipment of whitefish which was found to be infested with worms.

On December 18, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 54 boxes of whitefish at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about December 11, 1934, by M. Horwitz, from Edmonton, Alberta, Canada, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Product of Canada from J. H. McIntosh Alta To Company New York."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy, decomposed or putrid animal substance, and in that it consisted of portions of animals unfit for food.

On January 21, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24313. Adulteration of apples. U. S. v. 324 Bushels and 516 Bushels of Apples. Decrees of condemnation. Product released under bond, conditioned that deleterious substances be removed. (F. & D. nos. 34947, 34948. Sample nos. 2283–B, 2295–B.)

Examination of the apples involved in these cases showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On or about December 5, 1934, the United States attorney for the Eastern District of Michigan, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 840 bushels of apples at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about November 3, 1934, by the Springfield Produce Co., from E. Hardin, Ill., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled: "Grown & Packed by Lorsbach Bros., Hardin, Ills." The remainder was labeled: "Packed by Springfield Produce Co., Springfield, Ill."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On February 19, 1935, the Orchard Farm Pie Co., Detroit, Mich., having appeared as claimant and having admitted the allegations of the libels, judgments of condemnation were entered and it was ordered that the product be released under bond, conditioned that the deleterious substances be removed by peeling under the supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

24314. Adulteration of apples. U. S. v. 2,112 Bushels of Apples. Decree of condemnation. Product released under bond conditioned that deleterious substances be removed. (F. & D. no. 34949. Sample nos. 2297–B, 2298–B, 25113–B, 25114–B, 25115–B, 25119–B, 25137–B, 25141–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On or about December 5, 1934, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 2,112 bushels of apples at Detroit, Mich., alleging that the article had been shipped in interstate commerce in various consignments between the dates of September 22 and September 28, 1934, by W. R. MacClew, from Fancher, N. Y., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, namely, arsenic and lead, which might have rendered it harmful to health.

On February 19, 1934, the Orchard Farm Pie Co., Detroit, Mich., having appeared as claimant for the property and having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the deleterious substances be removed by peeling under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

24315. Adulteration of poultry. U. S. v. 107 Barrels of Poultry. Consent decree of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. no. 35026. Sample no. 24078-B.)

Examination of the dressed poultry involved in this case showed that it was in part decomposed and diseased.

On January 26, 1935, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 107 barrels of poultry at Camden, N. J., alleging that the article had been shipped in interstate commerce on or about January 12, 1935, by Harry Smith, from Indianapolis, Ind., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in part of a decomposed animal substance, and that it was in part a product of diseased animals.

On January 31, 1935, G. N. Savage & Co., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the decomposed and diseased fowls be separated therefrom and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24316. Adulteration of apples. U. S. v. 221 Bushels, et al., of Apples. Consent decree of condemnation. Product released under bond for removal of deleterious substances. (F. & D. nos. 35077 to 35081, incl. Sample nos. 25416-B, 25440-B, 25441-B, 29233-B, 29236-B, 29240-B, 29241-B, 29242-B, 29243-B, 29244-B, 29248-B, 29249-B, 29255-B.)

Examination of the apples involved in these cases showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On or about December 14, 1934, and January 3, 1935, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,186 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce between the dates of September 7 and October 12, 1934, by Schemenauer & Sons, from Bangor, Mich., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled: "Schemenauer & Sons, Bangor, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On January 15, 1935, Troen, Yanes, Steinberg & Wagner, Inc., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, and the cases having been consolidated into one cause of action, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the deleterious substances be removed by washing.

M. L. WILSON, *Acting Secretary of Agriculture.*

24317. Adulteration of butter. U. S. v. 43 Tubs of Butter. Decree of condemnation. Product released under bond. (F. & D. no. 35105. Sample no. 11997-B.)

This case involved a shipment of butter which was found to contain less than 80 percent by weight of milk fat.

On January 10, 1935, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 43 tubs of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about November 7, 1934, by the Oregon Savinar Co., from Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by the act of Congress of March 4, 1923.

On February 21, 1935, the Oregon-Savinar Produce Exchange, Inc., having appeared as claimant, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be brought into conformity with the law under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

24318. Adulteration of apples. U. S. v. 176 Bushels of Apples. Consent decree of condemnation. Product released under bond for removal of deleterious substances. (F. & D. no. 35119. Sample no. 25405–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On or about December 13, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 176 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 23, 1934, by the Coloma Orchards, from Coloma, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Coloma Orchard Co., Coloma, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 7, 1935, the Strube Celery & Vegetable Co., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the deleterious substances be removed by washing.

M. L. WILSON, *Acting Secretary of Agriculture.*

24319. Adulteration of apples. U. S. v. 796 Boxes of Apples. Consent decree of condemnation. Product released under bond. (F. & D. no. 35115. Sample nos. 16009–B, 16010–B.)

Examination of the apples involved in this case showed the presence of lead in an amount that might have rendered them injurious to health.

On January 25, 1935, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 796 boxes of apples at Vernon, Calif., alleging that the article had been shipped in interstate commerce on or about January 14, 1935, by the Lombard-Horsley Investment Co., from Buena, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Rome Beauty, B. P. & S. Company, Buena, Wash."

The article was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, lead, which might have rendered it injurious to health.

On January 29, 1935, the Lombard-Horsley Investment Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered by the court that the product be released, conditioned that it would not be sold or otherwise disposed of in violation of the Federal Food and Drugs Act and all other laws.

M. L. WILSON, *Acting Secretary of Agriculture.*

24320. Adulteration of apples. U. S. v. 122 Bushels and 100 Bushels of Apples. Consent decree of condemnation. Product released under bond for removal of deleterious substances. (F. & D. nos. 35117, 35181. Sample nos. 29215–B, 29216–B.)

Examination of the apples involved in these cases showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On or about December 27, 1934, and January 3, 1935, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 222 bushels of apples at Chicago, Ill., alleging that the article

had been shipped in interstate commerce in part on or about September 14, 1934, by William Hamlin under the name of Rosenthal & Stockfish, Inc., from Glenn, Mich., and in part on or about September 16, 1934, by Rosenthal & Stockfish, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "P. H. Broe, Bravo, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 17, 1935, Rosenthal & Stockfish, Inc., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the deleterious substances be removed by washing.

M. L. WILSON, *Acting Secretary of Agriculture.*

24321. Adulteration of whitefish. U. S. v. 271 Boxes of Whitefish. Consent decree of condemnation. Product released under bond. (F. & D. no. 35120. Sample nos. 1981–B, 1982–B.)

This case involved a shipment of whitefish which was found to be infested with worms.

On or about January 21, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 271 boxes of whitefish at Chicago, Ill., alleging that the article had been shipped from Chuchum, Province of Alberta, Canada, by McGinnis Products Corporation, on or about January 12, 1935, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed or putrid animal substance, and in that it consisted of portions of animals unfit for food.

On January 21, 1935, Walker's Fulton Fish Co., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it should not be sold or otherwise disposed of contrary to the provisions of the Federal Food and Drugs Act and all other laws.

M. L. WILSON, *Acting Secretary of Agriculture.*

24322. Adulteration of butter. U. S. v. 24 Boxes and 15 Boxes of Butter. Default decree of condemnation. Filthy portion destroyed. Remainder delivered to charitable organizations. (F. & D. no. 35145. Sample no. 2440–B.)

This case involved an interstate shipment of butter that contained less than 80 percent by weight of milk fat, and a part of which was also filthy.

On or about September 10, 1934, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 39 boxes of butter at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about August 8, 1934, by the Borden Sales Co., Inc. (Kirschbraun Div.), from Omaha, Nebr., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by act of Congress of March 4, 1923.

Adulteration was alleged with respect to a portion of the product for the further reason that it consisted in whole or in part of a filthy animal substance.

On December 6, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the portion of the butter which was filthy be destroyed, and that the portion deficient in milk fat be delivered to charitable organizations.

M. L. WILSON, *Acting Secretary of Agriculture.*

24323. Adulteration of apples. U. S. v. 300 Bushels of Apples. Decree of condemnation. Product released under bond for removal of deleterious ingredients. (F. & D. no. 35148. Sample no. 25268–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On December 7, 1934, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 300 bushels of apples at Manitowoc, Wis., alleging that the article had been shipped in interstate commerce on or about October 4, 1934, by the Great Lakes Fruit Co., from Shelby, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On January 31, 1935, the Quality Fruit Co., Manitowoc, Wis., having appeared as claimant for the property, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the deleterious substances be removed by washing.

M. L. WILSON, *Acting Secretary of Agriculture.*

24324. Adulteration of apples. U. S. v. 373 Bushels of Apples. Decree of condemnation. Product released under bond for removal of deleterious substances. (F. & D. no. 35149. Sample no. 25265–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On December 7, 1934, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 373 bushels of apples at Manitowoc, Wis., alleging that the article had been shipped in interstate commerce on or about October 20, 1934, by the Ludington Fruit Exchange, from Ludington, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Stark * * * Packed and Guaranteed Blue Band Fruit Ludington Fruit Exchange Ludington Mich."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On January 31, 1935, Jennaro & Levitan, Sheboygan, Wis., having appeared as claimant for the property, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the deleterious substances be removed by washing.

M. L. WILSON, *Acting Secretary of Agriculture.*

24325. Adulteration and misbranding of butter. U. S. v. 2,107 Plain Prints, et al., of Butter. Product ordered released under bond. (F. & D. no. 35158. Sample nos. 11751–B, 11752–B.)

This case involved an interstate shipment of butter which was short weight and a part of which was also deficient in milk fat.

On January 9, 1935, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 4,132 prints of butter at Butte, Mont., alleging that the article had been shipped in interstate commerce in part on or about December 8, 1934, and in part on or about December 12, 1934, by the Cudahy Packing Co., from Denver, Colo., and charging adulteration and misbranding of a portion and misbranding of the remainder in violation of the Food and Drugs Act as amended. A portion of the article consisted of 1-pound prints labeled in part: (Parchment wrapper) "1 Lb. Net Weight * * * Packed by The Cudahy Packing Co. Denver, Colo." The remainder of the article consisted of quarter-pound cubes, four in each carton labeled in part: (Carton) "One Pound Net Weight Monogram Creamery Butter * * * The Cudahy Packing Co. General Offices Chicago."

The libel alleged that a portion of the article was adulterated in that a product containing less than 80 percent of milk fat had been substituted for butter.

Misbranding of the said portion was alleged for the reason that the statement "butter" on the label was false and misleading, since it contained less than 80 percent by weight of milk fat. Misbranding was alleged with respect to both lots for the reason that the statement "One Pound Net Weight" was false and misleading, since the packages contained less than 1 pound, and for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was incorrect.

On January 23, 1935, the Cudahy Packing Co. having appeared as claimant for the property and having admitted the allegations of the libel, judgment was entered ordering that the product be released to the claimant under bond, conditioned that it should not be sold or otherwise disposed of contrary to the provisions of the Federal Food and Drugs Act and all other laws.

M. L. Wilson, *Acting Secretary of Agriculture.*

24326. Adulteration of apples. U. S. v. 80 Bushels of Apples. Consent decree of condemnation. Product released under bond for removal of deleterious substances. (F. & D. no. 35182. Sample no. 29224–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On or about December 27, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 80 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 30, 1934, by the Lawrence Cooperative Co., from Lawrence, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "A. J. Dowd Hartford, Mich. Wealthy."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 17, 1935, Rosenthal & Stockfish, Inc., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the deleterious substances be removed by washing.

M. L. Wilson, *Acting Secretary of Agriculture.*

24327. Adulteration of canned shrimp. U. S. v. 60 Cases, et al., of Canned Shrimp. Decrees of condemnation and forfeiture. Product released under bond for segregation and destruction of unfit portion. (F. & D. nos. 33544 to 33550, incl., 33616, 33617, 33618, 33620, 33621. Sample nos. 14813–B, 14814–B.)

These cases involved various lots of canned shrimp which was found to be in part decomposed.

On September 27 and October 3, 1934, the United States attorney for the Western District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 130 cases of canned shrimp at Sharon, Pa., and 24 cases of canned shrimp at New Castle, Pa. On September 27 and November 3, 1934, the United States attorney for the Northern District of Ohio filed libels against 284 cases of the product in various lots at Youngstown, Akron, and Struthers, Ohio. It was alleged in the libels that the article had been shipped in interstate commerce on or about August 25, 1934, by the Dorgan-McPhillips Packing Corporation, from Biloxi, Miss., and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Coral Brand Shrimp [or "Gulf Kist Fancy Medium Shrimp"] * * * Packed by Dorgan McPhillips Packing Corp. Mobile, Ala."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On November 23 and December 19, 1934, the Dorgan-McPhillips Packing Corporation having appeared as claimant and having admitted the allegations of the libels, judgments of condemnation were entered and it was odrered by the court that the product be released under bond, conditioned that the unfit portion be segregated and destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24328. Adulteration of butter. U. S. v. August F. Wehking (Graceville Creamery). Plea of guilty. Fine, $15. (F. & D. no. 32222. Sample nos. 22273–A, 39824–A.)

This case was based on an interstate shipment of butter that contained less than 80 percent of milk fat.

On January 3, 1935, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against August F. Wehking, trading as the Graceville Creamery, Graceville, Minn., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about August 1, 1933, from the State of

Minnesota into the State of Massachusetts of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923, which the article purported to be.

On January 3, 1935, the defendant entered a plea of guilty and the court imposed a fine of $15.

M. L. WILSON, *Acting Secretary of Agriculture.*

24329. Adulteration of sour cream. U. S. v. Shenandoah Valley Cooperative Milk Producers Association, Inc. Plea of guilty. Fine, $100 and costs. (F. & D. no. 33782. Sample no. 58782–A.)

This case was based on an interstate shipment of sour cream that was found to contain added gelatin.

On October 22, 1934, the United States attorney for the Western District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Shenandoah Valley Cooperative Milk Producers Association, Inc., Strasburg, Va., alleging shipment by said company in violation of the Food and Drugs Act, on or about January 22, 1934, from the State of Virginia into the State of Pennsylvania of a quantity of sour cream which was adulterated.

The article was alleged to be adulterated in that an undeclared added substance, namely, gelatin, had been substituted in part for sour cream, which the article purported to be.

On March 18, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $100 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

24330. Misbranding of bread. U. S. v. Continental Baking Co. Plea of guilty. Fine, $26. (F. & D. no. 33791. Sample no. 61369–A.)

This case was based on an interstate shipment of bread that was short weight.

On December 3, 1934, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Continental Baking Co., a corporation trading at Ogden, Utah, alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about October 30, 1933, from the State of Utah into the State of Wyoming of a quantity of bread which was misbranded. The article was labeled in part: "It's Slo-Baked Wonder-Cut Bread Sliced 20 Ounces * * * Continental Baking Company Incorporated Ogden, Utah."

The article was alleged to be misbranded in that the statement "20 Ounces", borne on the packages, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since nearly all of the packages examined contained less than 20 ounces of the said article. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was incorrect.

On February 16, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $26.

M. L. WILSON, *Acting Secretary of Agriculture.*

24331. Adulteration of apples. U. S. v. 450 Boxes of Apples. Decree of condemnation. Product released under bond. (F. & D. no. 33693. Sample no. 3836–B.)

This case involved an interstate shipment of apples that contained fluorine in an amount which might have rendered them harmful to health.

On October 15, 1934, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 450 boxes of apples at Minneapolis, Minn., alleging that the article had been shipped in interstate commerce on or about September 18, 1934, by Frank W. Shields & Sons, from Yakima, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Northwest Apples Tru T Form Brand Distributed by Frank W. Shields and Sons Yakima Jonathan * * * Packed by Ralph P Robel."

The article was alleged to be adulterated in that it contained an added poisonous and deleterious ingredient, fluorine, which might have rendered it injurious to health.

On November 14, 1934, the D. L. Piazza Brokerage Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it should not be sold or otherwise disposed of contrary to the Federal Food and Drugs Act and all other laws.

M. L. WILSON, *Acting Secretary of Agriculture.*

24332. Misbranding of canned pimientos. U. S. v. The Sumter Packing Co., Inc. Plea of guilty. Fine, $10. (F. & D. no. 31517. Sample no. 16702–A.)

This case was based on an interstate shipment of canned pimientos which were short weight.

On April 23, 1934, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Sumter Packing Co., Inc., Sumter, S. C., alleging shipment by said company in violation of the Food and Drugs Act, as amended, on or about August 10, 1932, from the State of South Carolina into the State of North Carolina, of a quantity of canned pimientos which were misbranded. The article was labeled in part: (Can) "Sumter Brand Pimientos Contents 7 Ozs. * * * Packed by The Sumter Packing Co., Inc. Sumter, S. C."

The article was alleged to be misbranded in that the statement "Contents 7 Ozs.", borne on the label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the cans contained less than 7 ounces of the article. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 18, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $10.

M. L. WILSON, *Acting Secretary of Agriculture.*

24333. Adulteration and misbranding of tomato catsup. U. S. v. The Summit Packing Co., Inc. Plea of guilty. Fine, $1 and costs. (F. & D. no. 31425. Sample nos. 28467–A, 30126–A, 30127–A, 33840–A, 33841–A, 33842–A.)

This case was based on interstate shipments of tomato catsup which contained undeclared added color and portions of which also contained excessive mold. One lot of the product failed to bear on the label a statement of the quantity of the contents.

On April 5, 1934, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Summit Packing Co., Inc., Wellsboro, Ind., alleging shipment by said company in various consignments between the dates of October 22, 1932, and January 4, 1933, from the State of Indiana into the State of Illinois of quantities of tomato catsup which was adulterated and misbranded in violation of the Food and Drugs Act as amended. The article was labeled, variously: "Traymore Brand * * * Tomato Catsup Distributors Central Wholesale Grocers, Inc. Chicago, Ill. Made From Fresh Ripe Tomatoes"; "White City Brand * * * Pure Tomato Catsup Samuel Kunin & Sons, Inc. Distributors Chicago, Ill. Made From Fresh Ripe Tomatoes"; "White City Brand * * * Tomato Catsup Samuel Kunin & Sons, Inc. Distributors Chicago, Ill. * * * This Catsup is Free From Artificial Coloring Matter"; "Flower Girl Brand Tomato Catsup Net Weight Oz. Mallot, Johnson Co., Distributors, Chicago Ill. Made From Fresh Ripe Tomatoes."

The article was alleged to be adulterated in that a product, namely, tomato catsup which contained undeclared added color, had been substituted for tomato catsup, which the article purported to be. Adulteration was alleged with respect to portions of the article for the further reason that it consisted in whole or in part of a decomposed vegetable substance.

Misbranding was alleged for the reason that the statements, "Tomato Catsup" and "Made From Fresh Ripe Tomatoes", with respect to portions of the article, and the statements, "Pure Tomato Catsup" and "This Catsup is Free From Artificial Coloring Matter", with respect to a portion of the article, were false and misleading and for the further reason that the article was

labeled so as to deceive and mislead the purchaser since the said statements represented that the article consisted wholly of pure tomato catsup, and one of the lots was specifically declared to be free from artificial coloring matter; whereas it did not consist wholly of pure tomato catsup, but did consist in part of undeclared added color. Misbranding was alleged with respect to one of the lots for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 1, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $1 and costs.

M. L. Wilson, *Acting Secretary of Agriculture.*

24334. Adulteration of canned sardines. U. S. v. Wass & Stinson Canning Co. Plea of nolo contendere. Fine, $50. (F. & D. no. 33837. Sample no. 59125–A.)

This case was based on an interstate shipment of canned sardines which were found to be in part decomposed.

On December 7, 1934, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Wass & Stinson Canning Co., a corporation, Prospect Harbor, Maine, alleging shipment by said defendant in violation of the Food and Drugs Act, on or about October 5, 1933, from the State of Maine into the State of Missouri, of a quantity of canned sardines which were adulterated. The article was labeled in part: "Beach Cliff Brand Maine Sardines * * * Packed By Wass & Stinson Canning Co. Prospect Harbor, Maine."

The article was alleged to be adulterated in that it consisted in part of a decomposed animal substance.

On January 3, 1935, a plea of nolo contendere was entered on behalf of the defendant company and the court imposed a fine of $50.

M. L. Wilson, *Acting Secretary of Agriculture.*

24335. Adulteration of blueberries. U. S. v. William Carey Robinson (W. C. Robinson). Plea of nolo contendere. Fine, $100. (F. & D. no. 32906. Sample nos. 42515–A, 42518–A, 43277–A, 43278–A, 43281–A, 43656–A, 43657–A, 43658–A, 45972–A.)

This case was based on interstate shipments of blueberries which were found to be infested with maggots.

On August 23, 1934, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the district court an information against William Carey Robinson, trading as W. C. Robinson, Harrington, Maine, alleging shipment by said defendant in violation of the Food and Drugs Act, on or about August 29 and August 31, 1933, from the State of Maine into the States of Illinois, New York, and Ohio, of quantities of blueberries which were adulterated.

The article was alleged to be adulterated in that it consisted in part of filthy vegetable and animal substances, since it was infested with maggots.

On October 4, 1934, the defendant entered a plea of nolo contendere and the court imposed a fine of $100.

M. L. Wilson, *Acting Secretary of Agriculture.*

24336. Misbranding of wines. U. S. v. 8 Bottles, et al., of Wine. Default decree of condemnation. Product ordered disposed of in accordance with law. (F. & D. no. 33280. Sample no. 4696–B.)

This case involved domestic wines which were labeled to convey the impression that they were wines of foreign origin. The labels were further objectionable, since the article was labeled as having been produced by a firm other than the real manufacturer, and since the quantity of the contents was not plain and conspicuous.

On August 18, 1934, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, a libel praying seizure and condemnation of 27 bottles of wine at Washington, D. C., alleging that the article had been manufactured by the Vintners & Distillers Corporation, of Egg Harbor, N. J., and was being offered for sale in the District of Columbia in possession of the District Wine & Liquor Co., of Washington, D. C., and that it was misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: "Le Chateau Des Vignes Port [or "Sherry" "Sauterne" "Burgundy" "Muscatel"]."

The article was alleged to be misbranded in that the statements on the respective labels, "Le Chateau Des Vignes Port Tarragona Variete", "Le Chateau Des Vignes Sherry Jurez Variete", "Le Chateau Des Vignes Sauterne Bordeaux Variete", "Le Chateau Des Vignes Burgundy Bordeaux Variete", and "Le Chateau Des Vignes Muscatel Milano Variete", together with the design of a workman in distinctive European attire, were false and misleading and tended to deceive and mislead the purchaser, since they conveyed the impression that the product was of French origin, whereas it was California wine, and this impression was not corrected by the statement "A California Wine", appearing on the back bottle label. Misbranding was alleged for the further reason that the statement on the label, "Seaview Winery, Egg Harbor, N. J.", was false and misleading and tended to deceive and mislead the purchaser, since it was not the true name of the manufacturer; and for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 22, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be disposed of in such manner as would not violate the provisions of the Federal Food and Drugs Act.

M. L. Wilson, *Acting Secretary of Agriculture.*

24337. Misbranding of corn meal. U. S. v. Josey-Miller Co., Inc. Plea of nolo contendere. Fine, $3 and costs. (F. & D. no. 31522. Sample nos. 46482–A, 46483–A, 46486–A.)

This case was based on interstate shipments of corn meal which was short weight.

On May 16, 1934, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Josey-Miller Co., Inc., Beaumont, Tex., alleging shipment by said company in violation of the Food and Drugs Act, on or about May 16, May 22, and June 2, 1933, from the State of Texas into the State of Louisiana, of quantities of corn meal which was misbranded. The article was labeled in part: "'Jo-Mil' * * * Pearl Meal Manufactured By Josey-Miller Co. Beaumont, Texas, 10 Lbs. Net."

The article was alleged to be misbranded in that the statement "10 Lbs. Net", borne on the sacks, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the sacks contained less than 10 pounds net of the said article.

On March 4, 1935, a plea of nolo contendere was entered on behalf of the defendant company and the court imposed a fine of $3 and costs.

M. L. Wilson, *Acting Secretary of Agriculture.*

24338. Adulteration and misbranding of butter. U. S. v. Mandan Creamery Co. Plea of guilty. Fine, $30 and costs. (F. & D. no. 31502. Sample nos. 36985–A, 36987–A, 37240–A, 37241–A, 37243–A, 37244–A.)

This case was based on an interstate shipment of butter that contained less than 80 percent by weight of milk fat and which failed to bear on the package a statement of the quantity of the contents.

On March 27, 1935, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Mandan Creamery Co., a corporation, Miles City, Mont., alleging shipment in violation of the Food and Drugs Act as amended, by said company on or about May 3, May 6, May 9, and May 12, 1933, from the State of Montana into the State of Washington of quantities of butter which was adulterated and misbranded.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat as prescribed by the act of Congress of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 28, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of $30 and costs.

M. L. Wilson, *Acting Secretary of Agriculture.*

24339. Adulteration and misbranding of butter. U. S. v. Hattiesburg Creamery & Produce Co. Plea of guilty. Fine, $50. (F. & D. no. 31503. Sample no. 33673–A.)

This case was based on an interstate shipment of butter which was deficient in milk fat and which was short weight.

On June 23, 1934, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Hattiesburg Creamery & Produce Co., a corporation, Hattiesburg, Miss., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about May 10, May 14, and May 15, 1933, from the State of Mississippi into the State of Louisiana of a quantity of butter which was adulterated and misbranded. The article was labeled in part: "Extrafancy Morning Glory Creamery Butter Morning Glory Creameries, Inc. One Pound Net Weight * * * Borden Associated Companies."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by the act of Congress of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the statements, "butter" and "One Pound Net Weight", borne on the label, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statements represented that the article was butter, a product which should contain 80 percent by weight of milk fat, and that the packages each contained 1 pound thereof; whereas it did not contain 80 percent by weight of milk fat, but did contain a less amount and the packages contained less than 1 pound net weight of the article. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On February 28, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $50.

M. L. Wilson, *Acting Secretary of Agriculture.*

24340. Adulteration of butter. U. S. v. Farmers Mutual Creamery Co. Plea of guilty. Fine, $25 and costs. (F. & D. no. 31504. Sample no. 32514–A.)

This case was based on an interstate shipment of butter that contained less than 80 percent by weight of milk fat.

On October 9, 1934, the United States attorney for the Northern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Farmers Mutual Creamery Co., a corporation, Monticello, Iowa, alleging shipment by said company in violation of the Food and Drugs Act, on or about May 3, 1933, from the State of Iowa into the State of New York, of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat as prescribed by the act of Congress of March 4, 1923, which the article purported to be.

On October 23, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $25 and costs.

M. L. Wilson, *Acting Secretary of Agriculture.*

24341. Adulteration of apples. U. S. v. 528 Bushels and 195 Bushels of Apples. Decrees of condemnation. Product released under bond, conditioned that the deleterious substances be removed. (F. & D. nos. 35191, 35192. Sample nos. 25105–B, 25121–B, 25122–B.)

Examination of the apples involved in these cases showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On or about December 5, 1934, the United States attorney for the Eastern District of Michigan, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 723 bushels of apples at Detroit, Mich., alleging that the article had been shipped in interstate commerce by George W. Haxton & Son, in part on or about September 28, 1934, from Wilson, N. Y., and in part on or about October 4, 1934, from Barker,

N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled, variously: "Geo. Haxton & Sons Oakfield NY"; "F. Seward, Barker N.Y."; "H. Sheifler Olcott N.Y."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On February 19, 1935, the Orchard Farm Pie Co., Detroit, Mich., having appeared as claimant and having admitted the allegations of the libels, judgments of condemnation were entered and it was ordered that the product be released under bond, conditioned that the deleterious substances be removed by peeling under the supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

24342. Adulteration of butter. U. S. v. Harry G. Kurrasch (Clinton Creamery). Plea of guilty. Fine, $15. (F. & D. no. 32223. Sample nos. 22274–A, 47071–A.)

This case was based on interstate shipments of butter that contained less than 80 percent of milk fat.

On January 2, 1935, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Harry G. Kurrasch, trading as the Clinton Creamery, Clinton, Minn., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about July 25 and August 1, 1933, from the State of Minnesota into the State of Massachusetts of quantities of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat as required by the act of Congress of March 4, 1923, which the article purported to be.

On January 2, 1935, the defendant entered a plea of guilty and the court imposed a fine of $15.

M. L. Wilson, *Acting Secretary of Agriculture.*

24343. Adulteration of butter. U. S. v. Litchfield Produce Co. Plea of guilty. Fine, $15. (F. & D. no. 32200. Sample no. 40318–A.)

This case was based on an interstate shipment of butter that contained less than 80 percent of milk fat.

On September 26, 1934, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Litchfield Produce Co., a corporation, Litchfield, Minn., alleging shipment by said company in violation of the Food and Drugs Act, on or about August 1, 1933, from the State of Minnesota into the State of Illinois of a quantity of butter which was adulterated. The article was labeled in part: (Tag) "Litchfield Produce Co. * * * Litchfield, Minnesota."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat as required by the act of Congress of March 4, 1923, which the article purported to be.

On September 26, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $15.

M. L. Wilson, *Acting Secretary of Agriculture.*

24344. Adulteration of butter. U. S. v. Alta Vista Farmers' Mutual Creamery Association. Plea of guilty. Fine, $50 and costs. (F. & D. no. 32177. Sample no. 51912–A.)

This case was based on an interstate shipment of butter that contained less than 80 percent of milk fat.

On October 31, 1934, the United States attorney for the Northern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Alta Vista Farmers' Mutual Creamery Association, a corporation, Alta Vista, Iowa, alleging shipment by said company on or about November 7, 1933, from the State of Iowa into the State of New York of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat as required by the act of Congress of March 4, 1923, which the article purported to be.

On December 6, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $50 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

24345. Adulteration and misbranding of Malt-O-Egg. U. S. v. 18¾ Dozen Cans of Malt-O-Egg. Default decree of condemnation and destruction. (F. & D. no. 33027. Sample no. 70234–A.)

This case involved an interstate shipment of a food preparation which was labeled to convey the impression that it contained milk and egg. Examination showed that it contained little or no milk or egg.

On June 29, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18¾ dozen cans of Malt-O-Egg at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about May 8, 1934, by the Titman Food Products Corporation, from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Malt-O-Egg Pure Egg Malted Milk."

The article was alleged to be adulterated in that a mixture of sugar, cocoa, and malt containing little or no egg and little or no milk had been substituted for "Egg Malted Milk", which the article purported to be.

Misbranding was alleged for the reason that the statements, "Malt-O-Egg", "Pure Egg Malted Milk", and "Pure cane sugar, highest grade breakfast cocoa and malt, scientifically combined with selected eggs and full cream dry milk", and the design of eggs and hens appearing on the label, were false and misleading and tended to deceive and mislead the purchaser when applied to a mixture of sugar, cocoa, and malt, with little or no milk and little or no egg. Misbranding was alleged for the further reason that the article was sold under the distinctive name of another article.

On March 26, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24346. Adulteration of tullibees. U. S. v. Roy Brewster. Plea of guilty. Fine, $50. Sentence suspended. (F. & D. no. 32898. Sample nos. 65317–A, 65318–A.)

This case was based on interstate shipments of tullibees which were infested with worms.

On January 2, 1935, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Roy Brewster, Williams, Minn., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about January 15, 1934, from the State of Minnesota into the State of Illinois of a quantity of tullibees which were adulterated.

The article was alleged to be adulterated in that it consisted in part of filthy animal substances due to its being infested with worms (triaenophori) and in that it consisted in part of portions of animals unfit for food.

On January 2, 1935, the defendant entered a plea of guilty and the court imposed a fine of $50, with execution of sentence stayed for a period of one year.

M. L. WILSON, *Acting Secretary of Agriculture.*

24347. Adulteration of tullibees. U. S. v. John Neumiller. Plea of guilty. Fine, $50. Sentence suspended. (F. & D. no. 32884. Sample nos. 45759–A, 65315–A.)

This case was based on interstate shipments of tullibees which were infested with worms.

On January 2, 1935, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against John Neumiller, Williams, Minn., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about July 8, 1933, and January 14, 1934, from the State of Minnesota into the State of Illinois of quantities of tullibees which were adulterated.

The article was alleged to be adulterated in that it consisted in part of a filthy animal substance, namely, worms (triaenophori), and in that it consisted in part of portions of animals unfit for food.

On January 2, 1935, the defendant entered a plea of guilty and the court imposed a fine of $50 with execution of sentence stayed for a period of one year.

M. L. Wilson, *Acting Secretary of Agriculture.*

24348. Adulteration of tullibees. U. S. v. George Neumiller. Plea of guilty. Fine, $50. Sentence suspended. (F. & D. no. 32882. Sample no. 65316–A.)

This case was based on an interstate shipment of tullibees which were infested with worms.

On January 2, 1935, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against George Neumiller, Williams, Minn., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about January 14, 1934, from the State of Minnesota into the State of Illinois of a quantity of tullibees which were adulterated.

The article was alleged to be adulterated in that it consisted in part of a filthy animal substance, namely, worms (triaenophori), and in that it consisted in part of portions of animals unfit for food.

On January 2, 1935, the defendant entered a plea of guilty and the court imposed a fine of $50. Execution of sentence was ordered stayed for a period of one year.

M. L. Wilson, *Acting Secretary of Agriculture.*

24349. Adulteration of tullibees. U. S. v. Ed. Tveit. Plea of guilty. Fine, of $50 suspended. (F. & D. no. 32233. Sample no. 59684–A.)

This case was based on an interstate shipment of tullibees which were infested with worms.

On January 2, 1935, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Ed. Tveit, Warroad, Minn., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about October 14, 1933, from the State of Minnesota into the State of Illinois of a quantity of tullibees which were adulterated.

The article was alleged to be adulterated in that it consisted in part of a filthy animal substance, and in that it consisted of portions of animals unfit for food due to infestation with parasites, i. e., worms (triaenophori) in large numbers.

On January 2, 1935, the defendant entered a plea of guilty and the court imposed a fine of $50. Execution of sentence was ordered stayed for a period of one year.

M. L. Wilson, *Acting Secretary of Agriculture.*

24350. Adulteration of butter. U. S. v. Matt L. Langenfelt and Richard A. Wittenbel (Milbank Creamery Co.). Plea of guilty. Fine, $10. (F. & D. no. 32224. Sample nos. 22272–A, 39824–A.)

This case was based on an interstate shipment of butter that contained less than 80 percent of milk fat.

On January 3, 1935, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Matt L. Langenfeld and Richard A. Wittenbel, trading as the Milbank Creamery Co., Milbank, S. Dak., alleging shipment by said defendants in violation of the Food and Drugs Act, on or about August 1, 1933, from the State of Minnesota into the State of Massachusetts of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat as required by the act of Congress of March 4, 1923, which the article purported to be.

On January 3, 1935, a plea of guilty was entered and the court imposed a fine of $10.

M. L. Wilson, *Acting Secretary of Agriculture.*

INDEX TO NOTICES OF JUDGMENT 24126–24350

[1] Contains instructions to the jury.

U. S. GOVERNMENT PRINTING OFFICE: 1935

N. J., F. D. 24351–24400 Issued February 1936

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

24351–24400

[Approved by the Acting Secretary of Agriculture, Washington, D. C., January 22, 1936]

24351. Joseph S. Morgan and Ivan C. Morgan (Morgan Packing Co.) v. Val Nolan. Injunction restraining enforcement against canned dry peas of regulations of the Secretary of Agriculture establishing standards for canned peas. Affirmed by Circuit Court of Appeals (Nolan v. Morgan, et al).

On November 22, 1932, Joseph S. Morgan and Ivan C. Morgan copartners, trading as the Morgan Packing Co., Austin, Ind., filed a bill of complaint against George R. Jeffrey, United States attorney for the Southern District of Indiana, and Arthur M. Hyde, Secretary of Agriculture of the United States, petitioning that the defendants be permanently enjoined from enforcing, against canned peas prepared from mature dry peas, packed by plaintiffs, regulations of the Secretary of Agriculture promulgated under the Food and Drugs Act, as amended, establishing a standard for canned peas and the labeling of canned peas which failed to conform to such standard. On November 29, 1932, an amendment in the form of a second paragraph to the bill of complaint was filed. On December 17, 1932, the complaint was dismissed as to the Secretary of Agriculture for lack of of jurisdiction. On January 9, 1933, a motion to dismiss as to George R. Jeffery was overruled.

On January 12, 1933, the parties appeared by counsel, the cause was submitted to the court for trial, evidence was heard and the complaint was taken under advisement by the court. Subsequent to the trial, George R. Jeffrey resigned as United States attorney and on April 7, 1933, Val Nolan who had succeeded to the office was, by consent and adoption, substituted as defendant.

On April 7, 1933, the court entered judgment that defendant be permanently enjoined from enforcing against plaintiffs or plaintiffs' products consisting of canned peas prepared from mature dry peas, the provisions of the regulations complained of. In entering judgment the court delivered the following opinion (Baltzell, *District Judge*):

"The plaintiffs, Joseph S. Morgan and Ivan C. Morgan, comprise a copartnership, and are engaged in the canning business with their principal place of business at Austin, Indiana. The partnership name under which they operate is the 'Morgan Packing Company.' They, however, have several canning factories, all within Indiana, aside from the one at Austin, each being operated under a separate and distinct trade name. The factory at Columbus is styled the 'Columbus Packing Company'; the one at Edinburg, the 'Edinburg Canning Company'; the one at Brownstown, the 'Brownstown Canning Company'; and the one at Scottsburg, the 'Scottsburg Canning Company.'

"While plaintiffs can a variety of food products, yet one that is canned in large quantities and sold extensively throughout the United States is canned peas, prepared wholly from the matured pea, that is, ripened and matured upon the vine. Such peas are purchased by plaintiffs in large quantities from the growers, mostly from Washington, Idaho, and other western states. They purchase annually approximately twenty-five car loads of peas and have them shipped directly to their various factories in Indiana. Upon receipt of these peas at their respective factories, they are carefully inspected and the whole, sound ones are hand picked for the purpose of processing and canning. Being

matured upon the vine, they are naturally hard and dry when received by the plaintiffs. By a process of soaking and heating in water at a certain temperature, by the application of steam, and sometimes by the use of ovens, they are rendered tender and palatable. The only ingredients added are sugar and salt. No coloring or flavoring is added, but by the preparation process they are restored to their natural color and form. After being thus prepared they, together with the liquor formed thereon, are placed in hermetically sealed cans. The cans and packages containing this product all bear labels upon which is inscribed in plain language and in a conspicuous place that such product is prepared from dry peas.

"While plaintiffs have been continuously engaged in the canning of food products for human consumption for more than a quarter of a century, they did not begin canning and selling dry peas until within the last four years. To illustrate the growth and extent of their business in this particular product, they sold approximately twenty-five thousand cases of twenty-four cans each in the year 1929, while in the year 1932 their sales exceeded two hundred thousand cases of an approximate value of two hundred and fifty thousand dollars. With the exception of approximately five per cent of the output of this product, all is transported in interstate commerce.

"During the year 1931 certain regulations were promulgated by the Department of Agriculture concerning canned peaches, canned pears, and canned peas. However, no attempt was made to enforce these regulations in so far as plaintiffs are concerned. Revised regulations were promulgated by the Department in the month of May 1932, in explanation of which it was stated: 'It is the opinion of the Department that canned soaked dry peas belong to the class "canned peas." Being mature, they are thus substandard and must bear the substandard legend.' The substandard legend to which reference is made was 'Below U. S. Standard, Low Quality, But Not Illegal, Soaked Dry Peas.' The regulations provide that this legend must be placed upon the label of all canned food of substandard quality. Dry peas prepared and canned by the plaintiffs fall within the substandard class, according to the regulations of the Department, and must contain such legend in accordance therewith. The plaintiffs have refused to comply with such regulations.

"The Department has instructed its inspectors to locate all of plaintiffs' interstate shipments of such product for the purpose of instituting libel proceedings against the same because of plaintiffs' refusal to comply with the regulations pertaining to the labeling thereof. In fact, a great number of such shipments have been located and seized. Many libel proceedings are now pending, but none, however, within the State of Indiana.

"Pursuant to Equity Rule 70½, Findings of Fact and Conclusions of Law are separately filed in this action.

"The bill of complaint seeks to enjoin the United States attorney from the enforcement of the above regulations against plaintiffs and their canned food products, consisting of canned peas prepared from dry matured peas. The bill, as to Arthur M. Hyde, as Secretary of Agriculture of the United States, was dismissed upon his motion, he claiming the privilege of venue.

"It is the contention of the plaintiffs that the regulations in question are invalid; first, because the provisions of such regulations are unreasonable, arbitrary, and unauthorized under the provisions of the McNary-Mapes Amendment, pursuant to which the same were promulgated; also, that the law, as amended, and applied, is invalid because it violates the fifth amendment of the Constitution of the United States in that it takes plaintiffs' property without due process and without just compensation. Second, plaintiffs contend that the Food and Drugs Act, as amended, is itself unconstitutional. They contend that such law violates not only the fifth amendment of the Constitution of the United States, but that it violates the Sixth Amendment of such Constitution in that no standard of guilt or liability to seizure is set up in the amendment that is ascertainable from the amendment itself, but that guilt or liability to seizure is made dependable upon 'reasonable' standards which may be established by the Secretary of Agriculture.

"In the consideration of this case, if the court should arrive at the conclusion that the regulations in question are unreasonable and inconsistent with the act itself, it will then not be necessary to consider the constitutionality of such act. In order that such regulations may be valid, they must be reasonable and consistent with the law under which they are promulgated. *International Ry. Co.* v. *Davidson*, 257 U. S. 506; 66 LE 341; 42 SC 179. *Waite* v. *Macy*, 246 U. S. 606; 62 LE 892; 38 SC 395.

"The Food and Drugs Act provides for the branding or labeling of food products and defines the instances in which food shall be deemed misbranded (Title 21, Sec. 10, USCA). Prior to the amendment of this act in 1930, no authority was delegated to the Secretary of Agriculture to promulgate regulations for the standards of canned food products. Authority is given by such amendment to formulate such regulations. However, such regulations must be reasonable and consistent with the law which authorizes them. The first question, therefore, to be determined is whether or not the regulations which require plaintiffs to place upon the label attached to each can which is filled with processed dry peas, the legend 'Below U. S. Standard, Low Quality, But Not Illegal, Soaked Dry Peas' are unreasonable and inconsistent with the law. If such regulations are unreasonable and inconsistent with the law, they are illegal, and cannot be enforced.

"It is conceded by the defendant that mature dry peas as processed by the plaintiffs, constitute a wholesome, pure food. There is no contention that such peas are not properly prepared and canned by plaintiffs. The contention of the defendant is, however, that peas thus prepared are substandard and must be labeled as such. It is clear that the purpose of the Food and Drugs Act is to guard against adulterated and misbranded food products. It is also clear that it was the intention of Congress to protect the purchasing public from being imposed upon, and to inform it of the quality of goods being purchased. In construing this law, the Supreme Court of the United States said in the case of *United States* v. *Antikamnia Chemical Co.*, 231 U. S. 654; 58 LE 419; 34 SC 222, 'The purpose of this act is to secure the purity of food and drugs and to inform purchasers of what they are buying.' Thus it is the purpose of that part of the amended act, which prohibits misbranding, 'to inform purchasers of what they are buying', there being no contention that such food is impure. The question, therefore, naturally arises as to whether or not a purchaser can be misled in the purchase of 'canned peas' if the label contains the statement that the contents are prepared from dry peas, as inscribed upon the label of the product sold by plaintiffs. It is inconceivable that a purchaser could be misled when the label contains such clear language.

"The authority given the Secretary of Agriculture, under the law, is 'to determine, establish and promulgate, from time to time, a reasonable standard of quality and condition and fill of container for each class of canned food as will, in his judgment, promote honesty and fair dealing in the interest of the consumer.' It is again demonstrated that the intention is to protect the consumer. The regulations in question limit the standard canned peas to those which are canned in their tender, immature state. Such a standard is not a reasonable one for the class of canned peas prepared from dry peas, such as plaintiffs' product.

"It is apparent that the insertion of the legend required by the regulations, upon the label of dry canned peas will do an irreparable injury to plaintiffs in the sale of such products, for which they have no adequate remedy at law. It will immediately arouse the suspicion of the consumer whose welfare the law is intended to protect. The rapid increase in the amount of dry peas placed upon the market by plaintiffs within the past few years is ample proof of the demand for that particular product by the consumer. To require plaintiffs to comply with such regulations will not only seriously damage their business, but will deprive the consumer of the product which he desires, and to which he is entitled.

"The regulations in question, requiring such labeling of plaintiffs' food products, are unreasonable and inconsistent with the law under which they were promulgated, and are, therefore, invalid. *International Ry. Co.* v. *Davidson*, supra.

"The defendant has asserted that he intends to enforce the regulations against these plaintiffs, and it is apparent that the enforcement thereof will do irreparable damage to them. They have no adequate remedy at law, and are entitled to an injunction permanently enjoining the defendant from the enforcement of such regulations. *Waite* v. *Macy*, supra. *International Ry. Co.* v. *Davidson*, supra. *American School of Magnetic Healing* v. *McAnnulty*, 187 U. S. 94; 47 LE 90; 23 SC 33. *Philadelphia Co.* v. *Stimson, Secy. War*, 223 U. S. 605; 56 LE 570; 32 SC 340. *Work, Secy. Interior* v. *Louisiana*, 269 U. S. 250; 70 LE 258; 46 SC 92.

"In view of the conclusions reached by the court, it is not necessary to determine the question of whether or not the Food and Drugs Act, as amended, is constitutional.

"A decree will be prepared accordingly.

"Exception and notice of appeal were filed by the defendant and on July 3, 1933, petition for appeal to the Circuit Court of Appeals for the Seventh Circuit was granted. On March 14, 1934, the circuit court of appeals handed down the following opinion affirming the judgment of the district court (Alschuler, circuit judge):

"Appellees sued to enjoin appellant, as United States attorney, from enforcing against them certain regulations of the Secretary of Agriculture promulgated under supposed authority of the McNary-Mapes amendment of July 8, 1930, to section 8 of the United States Food and Drugs Act of June 30, 1906. The appeal is from a decree awarding appellees a permanent injunction as prayed.

"Appellees had been for some years in the business of processing, canning, and marketing dry, ripe peas, which were first soaked in hot water to soften them and to swell them to their original shape and color, and this process being followed by further steps. Under the regulations of the Department of Agriculture formerly in force containers of the product designed to move in interstate or foreign commerce were required to be plainly labeled with the words 'Prepared From Dry Peas.'

"After the adoption of the McNary-Mapes amendment, the Secretary of Agriculture promulgated regulations for standardizing and labeling canned peas, requiring the cans containing appellees' product designed for interstate or foreign commerce to bear in conspicuous lettering the legend 'Below U. S. Standard. Low Quality But Not Illegal. Soaked Dry Peas.' Appellees were duly notified to so ship no such product unless so labeled. Declining to comply, they were threatened with prosecution and confiscation of the product undertaken to be so shipped.

"There is no contention that dry peas are of themselves to any degree deleterious or unfit for human food, nor that appellees' process for canning them causes the slightest impairment of the product. It is likewise apparent that such labeling of the container would in a short time practically destroy the industry of canning dry peas designed for interstate or foreign commerce. This is not only apparent, but has been practically the result when this label was placed upon the cans. The evidence shows that it is so well recognized in the trade that such a label would destroy trade in the product, that the label is generally known in the trade as 'crepe label.'

"The production and distribution of canned dry or ripe peas is an industry not less lawful or commendable than the production and distribution of the immature peas, which the regulations prescribe as the standard for canned peas. The canning of ripe peas is not like the other, a seasonal industry. The peas when dry through ripening are gathered, and will keep indefinitely in that state before canning; whereas the immature peas must be gathered and processed at once when they reach the suitable stage of maturity, after which delay of even a very few days will overdevelop them and render them unfit for the prescribed standard.

"The regulations specify certain tests to be applied to give assurance that the immature peas have not passed beyond the degree of ripeness essential to constitute them 'standard canned peas.'

"When the peas become hard and dry through the natural process of ripening they cannot, of course, comply with the standard thus fixed for canned peas. Processing restores their fullness and color, and renders them soft and edible. But they are a product essentially different from that of the canned unripe peas which are made the standard. Different processes are necessary. The long soaking in hot water, cooling, and reheating of the dry peas would disintegrate and ruin the immature variety. The properties of the two products are very different. In the mature peas there is more of starch and less of sugar than in the immature peas, and the mature have more of nutriment and food value than the immature. There is, of course, a difference in the taste, most persons probably preferring the immature peas, although, as was testified, this is a matter of the taste of the individual.

"The canned dry peas sell in the market for considerably less than the immature product, which may be accounted for by the more general preference for the taste and consistency of the immature product, as well as the fact that the dry peas may be kept indefinitely and readily shipped long distances to canneries and may be canned at leisure, while the immature peas must be processed without delay and in canneries conveniently located with reference to the place where the peas are grown.

"All this indicates that, notwithstanding the same vines produce the immature and the full ripened peas, for the purposes of canning the two are products as

essentially different as if taken from radically different plants, and were known by different names. As articles of commerce we think they must be regarded as in separate classes, each having its own properties and peculiarities. There are doubtless good, bad, and indifferent grades of dry peas as well as of immature peas; and to say that canned ripe peas are an inferior grade of canned immature peas is, in our judgment, at once illogical, unreasonable, and unfair.

"To be sure, a customer desiring the immature canned peas should not have the dry peas imposed upon him, and vice versa. The object of such legislation and the regulations thereunder *is* to guard against deception of the public. Statutes and regulations adopted for that end are salutary and should be supported. The right of Congress to adopt such legislation for regulating interstate and foreign commerce, and to empower the making of suitable and reasonable regulations thereunder, must generally be conceded.

"But in view of what has been said we cannot regard as 'reasonable' the regulation which fixes immature, unripe peas as the standard for canned peas generally, requiring the dry peas product to be labeled in a manner which would convey to the public the impression that it is a degraded and inferior article of food, which in fact it is not.

"Appellees' product might well be—as the evidence shows it is—a most excellent quality of the canned ripe peas variety and of high food value, and yet, under the regulation, be required to bear the legend 'Low Quality.' In our judgment the very statement of the proposition carries condemnation of the regulation which requires appellees to so brand their product.

"We do not think that the statute contemplates, with respect to this product, that either immature peas or the dry peas shall be the generic product whereby the other is to be graded. If canned peas are to be considered the generic product, there should be a subclassification as to the immature and the dry products, each of which, if of good quality, is a standard food product and neither a subordinate nor an inferior of the other.

"The McNary-Mapes amendment is not directed toward adulteration of foods, but solely to their misbranding. Its purpose is commendable, but if unreasonably applied may work hardship and injustice wholly beyond its intended and lawful scope. As stated in the amendment itself, the regulations to be made under it should 'promote honesty and fair dealing in the interest of the consumer', and the Secretary of Agriculture is authorized, from time to time, to make modifications therein 'as in his judgment, honesty and fair dealing in the interest of the consumer may require.' It cannot be in the interest of the consumer to drive from the market this useful and cheaper product through branding it so the public will not buy it. If the immature peas have an advantage in flavor or size or color which may give them corresponding advantage in securing a better price, it affords no reason for striking down the other and cheaper product. The amendment does not concern itself with competition between products, but only with so describing products that the public may not be readily deceived by substitution of products.

"In our view the entire legend with which it was demanded appellees should label their product is unwarranted and unreasonable. 'Below U. S. Standard' should not be required, because the fixing of the one article as the standard is arbitrary and unreasonable to the same degree as if it had been required that the canned dry peas be the standard and the immature peas a descent therefrom. 'Low Quality' is of course a statement of what is not a fact, since the evidence all indicates that the product in question is not of low quality, unless indeed, as it not here contended, a low quality of ripe peas or a deleterious method is employed in the product. The words 'Not Illegal' are not enlightening. If the product were illegal it could not lawfully enter into foreign or interstate commerce as human food. The words serve only to 'damn with faint praise' any product whereon they appear. 'Soaked Dry Peas' is a less objectionable but at the same time an unreasonable requirement as a brand. A fair inference therefrom is that the dry peas are simply soaked and then canned. The soaking is only a part of the process, and if the purpose of the regulation is not to condemn a meritorious article, these words carry an imputation respecting a proper food which tends in no degree to protect the consumer, who needs no protection beyond that afforded by information which will reasonably apprise him of what he is buying.

"It is not our function to prescribe a legend to be placed on appellees' containers in order to advise the public that the article in question is produced from ripe or dry peas and not from immature peas. Under a prior regulation of the Secretary of Agriculture appellees had long placed on their containers, in bold face type, and have continued so to do, the statement 'Prepared From

Dry Peas.' To those who pay attention to labels a statement of this nature would clearly indicate that the product was not that of immature, succulent peas, which the Secretary assumed to fix as the standard of excellence for all canned peas. Clearly this or some suitable equivalent would adequately protect the public, so far as any label can, against unwarrantable substitution of this product for that of immature peas.

"Concluding as we do that the regulation complained of, as applied to appellees' product, is unreasonable and unauthorized by the statute, we agree with the District Court, which reached the same conclusion, that there is no need to consider the question of constitutionality of the amendment. We refer with approval to Judge Baltzell's opinion in the District Court, 3 Fed. Sup. 143, particularly to his citation and discussion of authorities and his consideration of some other propositions whereon we have not commented.

"The decree is affirmed."

M. L. WILSON, *Acting Secretary of Agriculture.*

24352. Joseph S. Morgan, et al., v. Arthur M. Hyde (Henry A. Wallace). Suit to enjoin the Secretary of Agriculture from enforcing against canned peas prepared from soaked dry peas, the provisions of the regulations of the Secretary of Agriculture prescribing standards for canned peas and labeling of canned peas which fail to conform to such standard. Permanent injunction granted.

On December 23, 1932, Joseph S. Morgan and Ivan C. Morgan, copartners, trading as the Morgan Packing Co., Austin, Ind., filed a bill of complaint in the Supreme Court of the District of Columbia against Arthur M. Hyde, Secretary of Agriculture, praying that the defendant be restrained from enforcing against canned peas packed from mature dry peas, the provisions of the regulations prescribing standards for canned peas. The complaint sets forth substantially the same allegations as those contained in the complaint filed by plaintiffs in the Southern District of Indiana against George R. Jeffrey, United States attorney, and Arthur M. Hyde, which was dismissed as to the latter for lack of jurisdiction (notice of judgment no. 24351) and prayed, as in the former complaint, that a preliminary hearing be granted on the question of a temporary injunction, that a temporary restraining order be issued, and that upon final hearing the defendant be permanently enjoined from enforcing the said regulations. A motion for a temporary restraining order was denied.

On January 18, 1933, a motion for a preliminary injunction was argued to the court and was granted. Subsequently Henry A. Wallace, who had succeeded Arthur M. Hyde as Secretary of Agriculture, was substituted as defendant.

On January 16, 1935, final hearing having been held, a decree was entered permanently enjoining the Secretary of Agriculture and all subordinate officers and agents acting under his direction and authority, from enforcing against plaintiffs' product, consisting of canned peas prepared from matured dry peas, the provisions of the regulations requiring that they be labeled as substandard, the court holding that they were a separate class of canned food from canned peas canned in their tender immature state.

M. L. WILSON, *Acting Secretary of Agriculture.*

24353. Adulteration of tomato trimmings. U. S. v. Uddo-Taormina Corporation and Angelo Glorioso, trading as the Florida Canning Co. Pleas of nolo contendere. Fines, $400. (F. & D. no. 30233. Sample no. 7122-A.)

This case was based on an interstate shipment of canned tomato trimmings which were found to be in part decomposed and to contain maggots.

On September 14, 1933, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Uddo-Taormina Corporation and Angelo Glorioso, of New Orleans, La., said corporation and individual trading as the Florida Canning Co., at Miami, Fla., alleging shipment by said defendants in violation of the Food and Drugs Act on or about May 17, 1932, from the State of Florida into the State of Louisiana, of a quantity of tomato trimmings which were adulterated. The article was billed as tomato pulp.

The article was alleged to be adulterated in that it consisted in part of a filthy and decomposed vegetable substance; and in that it consisted in part of a filthy animal substance, namely, maggots.

On January 10, 1935, the defendants entered pleas of nolo contendere to the information, and the court imposed fines in the total amount of $400.

M. L. WILSON, *Acting Secretary of Agriculture.*

24354. Adulteration and misbranding of canned tomatoes. U. S. v. Churchland Canning Corporation. Plea of guilty. Fine, $25. (F. & D. no. 32132. Sample nos. 39854–A, 39855–A.)

This case was based on the interstate shipment of canned tomatoes, samples of which were found to contain fruit flies, worms, larvae, and maggots. The product in one shipment fell below the standard established by this Department, because of excessive unsightly blemishes, and was not labeled to show that it was substandard.

On October 22, 1934, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Churchland Canning Corporation, Churchland, Va., alleging shipment by said company through and in the name of its agent, the Southgate Brokerage Co., Inc., in violation of the Food and Drugs Act as amended, on or about November 20 and November 21, 1932, from the State of Virginia into the State of North Carolina, of quantities of canned tomatoes which were adulterated, and a part of which were misbranded. The article was labeled in part: "Martin Brand * * * Tomatoes * * * Packed By Churchland Canning Corp. Churchland, Va."

The article was alleged to be adulterated in that it consisted in part of a filthy vegetable and animal substance, one lot showing evidence of infestation with fruit flies, worms, and larvae, and the other lot showing evidence of infestation with maggots and larvae.

Misbranding was alleged with respect to one lot for the reason that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, in that unsightly blemishes (mostly rot) had not been sufficiently trimmed from the article, and its package or label did not bear a plain and conspicuous statement prescribed by the Department indicating that it fell below such standard.

On November 7, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $25.

M. L. Wilson, *Acting Secretary of Agriculture.*

24355. Misbranding of canned ripe olives. U. S. v. 998 Cartons of Canned Ripe Olives. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 33301. Sample nos. 390–B, 6754–B.)

This case involved canned ripe olives which were labeled to convey the impression that they were large olives; but which were, in fact, small olives.

On August 29, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 998 cartons of canned ripe olives at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about July 13, 1934, by the Sylmar Packing Corporation, from Los Angeles, Calif., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Pastene Standard California Ripe Olives."

The article was alleged to be misbranded in that the pictorial representation on the can panel of the label showing olives of large size was false and misleading and tended to deceive and mislead the purchaser when applied to olives of much smaller size.

On March 9, 1935, P. Pastene & Co., Inc., New York, N. Y., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered by the court that the product be released under bond, conditioned that it be relabeled.

M. L. Wilson, *Acting Secretary of Agriculture.*

24356. Adulteration of canned shrimp. U. S. v. 500 Cases of Canned Shrimp. Decree of condemnation. Product released under bond for separation and destruction of unfit portion. (F. & D. no. 33685. Sample no. 11580–B.)

This case involved canned shrimp that was in part decomposed.

On October 13, 1934, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 500 cases of canned shrimp at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about October 4, 1934, by the Lake Oyster & Fish Co., from New Orleans, La., and charging adulteration in violation of the Food and

Drugs Act. The article was labeled in part: "Lake-View Brand Shrimp * * * Packed by Lake Oyster and Fish Co. Houma, La."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On February 14, 1935, Theo. Engeran, Houma, La., having appeared as claimant for the property and having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the decomposed portion be segregated and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24357. Adulteration of apples. U. S. v. Daniel S. Gamble. Plea of guilty. Fine, $50 and costs. (F. & D. no. 33767. Sample no. 48764–A.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 31, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Daniel S. Gamble, Brewster, Wash., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about March 30, 1934, from the State of Washington into the State of California of a quantity of apples which were adulterated. The article was labeled in part: "Delicious D. S. Gamble Brewster Wash."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, lead and arsenic, in an amount which might have rendered it injurious to health.

On February 25, 1935, the defendant entered a plea of guilty and the court imposed a fine of $50 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

24358. Adulteration and misbranding of potatoes. U. S. v. Joseph L. Bushman (Joe Bushman). Plea of nolo contendere. Fine, $10. (F. & D. no. 33772. Sample no. 65363–A.)

This case involved an interstate shipment of potatoes which were below the grade designated on the label.

On October 4, 1934, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Joseph L. Bushman, trading as Joe Bushman, in Marathon County, Wis., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about March 20, 1934, from the State of Wisconsin into the State of Illinois, of a quantity of potatoes which were adulterated and misbranded. The article was labeled in part: "Potatoes U. S. Grade No. 1 Packed By Jos. Bushman Galloway, Wis. Fredman-Milw."

The article was alleged to be adulterated in that potatoes of a lower grade than U. S. grade No. 1 had been substituted for U. S. grade No. 1 potatoes, which the article purported to be.

Misbranding was alleged for the reason that the statement "Potatoes U. S. Grade No. 1", borne on the label, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the potatoes were not U. S. grade No. 1, but were of a lower grade.

On January 15, 1935, the defendant entered a plea of nolo contendre and the court imposed a fine of $10.

M. L. WILSON, *Acting Secretary of Agriculture.*

24359. Misbranding of cottonseed screenings. U. S. v. Guthrie Cotton Oil Co. Plea of guilty. Fine, $25 and costs. (F. & D. no. 33781. Sample no. 57540–A.)

This case was based on an interstate shipment of cottonseed screenings that contained less than 43 percent of protein, the amount declared on the label.

On October 31, 1934, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Guthrie Cotton Oil Co., a corporation, Guthrie, Okla., alleging shipment by said company on or about October 28, 1933, from the State of Oklahoma into the State of Kansas of a quantity of cottonseed screenings which were misbranded. The article was labeled in part:

"Guaranteed Analysis Protein, not less than 43% * * * Manufactured for Kansas City Cake & Meal Co."

The article was alleged to be misbranded in that the statement on the label, "Guaranteed Analysis Protein, not less than 43%", was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since it contained less than 43 percent of protein.

On December 6, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $25 and costs.

M. L. Wilson, *Acting Secretary of Agriculture.*

24360. Misbranding of cottonseed meal and cake. U. S. v. Terminal Oil Mill Co. Plea of guilty. Fine, $5. (F. & D. no. 33803. Sample nos. 63708–A, to 63711–A, incl., 63713–A, 63717–A.)

This case was based on shipments of 4 lots of cottonseed cake and meal, 3 of which were deficient in protein, and 1 of which was short weight.

On October 8, 1934, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Terminal Oil Mill Co., a corporation, Oklahoma City, Okla., alleging shipment by said company in violation of the Food and Drugs Act, between the dates of November 23, 1933, and March 3, 1934, from the State of Oklahoma into the State of Kansas of quantities of cottonseed meal and cake which were misbranded. Portions of the articles were labeled: "Guaranteed Analysis Protein, not less than 43% * * * Manufactured by Terminal Oil Mill Co. Oklahoma City, Oklahoma." The remainder was labeled: "100 Pounds Net * * * Products of cottonseed only Choctaw Sales Company * * * Kansas City, Missouri."

The articles were alleged to be misbranded in that the statement, "Guaranteed Analysis Protein, not less than 43%," with respect to the product involved in three of the shipments, and the statement "100 Pounds Net", with respect to the product involved in the remaining shipment, borne on the labels, were false and misleading; and for the further reason that the articles were labeled so as to deceive and mislead the purchaser, since the product in three of the said shipments contained less than 43 percent of protein, and each of a large number of the sacks of the remaining shipment contained less than 100 pounds of the article.

On March 20, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $5.

M. L. Wilson, *Acting Secretary of Agriculture.*

24361. Adulteration of tomato paste and tomato sauce. U. S. v. Italian Food Products Co., Inc. Plea of nolo contendere. Fine, $180. (F. & D. no. 33809. Sample nos. 61745–A, 61760–A, 65092–A, 67257–A, 67272–A, 68189–A, 68190–A.)

This case was based on interstate shipments of tomato paste and tomato sauce that contained excessive mold.

On February 7, 1935, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Italian Food Products Co., Inc., Long Beach, Calif., alleging shipment by said company in violation of the Food and Drugs Act, between the dates of December 26, 1933, and January 31, 1934, from the State of California into the States of Massachusetts, New York, Illinois, and Pennsylvania of quantities of tomato paste and tomato sauce which were adulterated. The articles were labeled, variously: "Campania Brand * * * Concentrated Tomato Paste * * * Packed by Italian Food Products Co., Inc. Long Beach, California"; "Berta Brand * * * Pure Tomato Paste * * * Packed for Alba Products Co. Boston, Mass."; "Etna Brand Pure Neapolitan Style Tomato Sauce * * * Packed For Coast Commerce Co., Inc. Los Angeles, Calif."; "1888 Brand * * * Tomato Sauce"; "Il Duomo Brand * * * Concentrated Tomato Paste * * * Distributed by Jos. Antognoli & Co. Chicago, Illinois"; "Tomato Paste Mariuccia * * * Packed By Italian Food Products Co., Inc., Long Beach, California."

The articles were alleged to be adulterated in that they consisted in part of decomposed vegetable substances.

On March 4, 1935, a plea of nolo contendere was entered on behalf of the defendant company and the court imposed a fine of $180.

M. L. Wilson, *Acting Secretary of Agriculture*

24362. Adulteraton of tomato paste. U. S. v. West Coast Packing Corporation. Plea of nolo contendere. Fine, $30. (F. & D. no. 33811. Sample nos. 67251–A, 67814–A.)

This case was based on an interstate shipment of tomato paste that contained excessive mold.

On February 7, 1935, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the West Coast Packing Corporation, Long Beach, Calif., alleging shipment by said company in violation of the Food and Drugs Act, on or about December 23, 1933, from the State of California into the State of New York of a quantity of tomato paste which was adulterated. The article was labeled in part: "Marca Seemano Brand Salsa Di Pomidoro Tomato Paste * * * Distributors—Seeman Bros. Inc. New York."

The article was alleged to be adulterated in that it consisted in part of a decomposed vegetable substance.

On March 4, 1935, a plea of nolo contendere was entered on behalf of the defendant company and the court imposed a fine of $30.

M. L. WILSON, *Acting Secretary of Agriculture.*

24363. Adulteration and misbranding of potatoes. U. S. v. Shattuck Irrigation Co. Plea of guilty. Fine, $30. (F. & D. no. 33841. Sample no. 65061–A.)

This case was based on an interstate shipment of potatoes which were of lower grade than that designated on the label.

On October 31, 1934, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Shattuck Irrigation Co., a corporation, Idaho Falls, Idaho, alleging shipment by said company in violation of the Food and Drugs Act, on or about March 22, 1934, from the State of Idaho into the State of Illinois of a quantity of potatoes which were adulterated and misbranded. The article was labeled in part: "Selected U. S. No. 1 Idaho Russett Potatoes Shattuck Brand Idaho Falls."

The article was alleged to be adulterated in that potatoes of a lower grade than U. S. No. 1 had been substituted for U. S. No. 1 grade potatoes, which the article purported to be.

Misbranding was alleged for the reason that the statement, "U. S. No. 1 * * * Potatoes", borne on the sacks, was false and misleading and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the article was not U. S. No. 1 grade potatoes, but was potatoes of a lower grade.

On March 13, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $30.

M. L. WILSON, *Acting Secretary of Agriculture.*

24364. Misbranding of olive oil. U. S. v. Strohmeyer & Arpe Co. Plea of guilty. Fine, $200. (F. & D. no. 33844. Sample no. 51672–A.)

This case was based on an interstate shipment of olive oil which was short volume.

On March 21, 1935, an information was filed by a special assistant of the Attorney General, acting upon a report by the Secretary of Agriculture and under authority conferred by the Attorney General, in the United States district court for the Southern District of New York, against the Strohmeyer & Arpe Co., a corporation, New York, N. Y., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about February 27, 1934, and March 12, 1934, from the State of New York into the State of Pennsylvania of quantities of olive oil that was misbranded. The article was labeled in part: "1 Gallon Anita Brand Pure Olive Oil Imported Product United Pure Food Co. N. Y. Importers & Packers."

The article was alleged to be misbranded in that the statement "1 Gallon", borne on the label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the cans did not contain 1 gallon of the article, but did contain in each of a large proportion thereof less than 1 gallon. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the

contents was not plainly and conspicuously marked on the outside of the package, since the statement made was not correct.

On March 29, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $200.

M. L. Wilson, *Acting Secretary of Agriculture.*

24365. Adulteration and misbranding of tomato paste. U. S. v. Italian Food Products Co., Inc. Plea of nolo contendere. Fine, $90. (F. & D. no. 33852. Sample no. 69759–A.)

This case involved quantities of a product sold as tomato paste. Examination showed that it contained insufficient tomato solids to be described as tomato paste, and that it contained excessive mold.

On February 7, 1935, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Italian Food Products Co., Inc., Long Beach, Calif., alleging shipment by said company in violation of the Food and Drugs Act, on or about December 4, 1933, and January 31, 1934, from the State of California into the State of New York of quantities of tomato paste which was adulterated and misbranded. The article was labeled in part: "Campania Brand * * * Concentrated Tomato Paste Salsa di Pomidoro Concentrata Nel Vuoto Qualita Finissima Packed By Italian Food Products Co. Inc. Long Beach, California."

The article was alleged to be adulterated in that a substance deficient in tomato solids had been substituted for concentrated tomato paste, which the article purported to be, and in that it consisted in part of a decomposed vegetable substance.

Misbranding was alleged for the reason that the statements "Concentrated Tomato Paste", "Concentrata Nel Vuoto", and "Qualita Finissima", borne on the labels, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, in that the said statements represented that the article was concentrated tomato paste of fine quality; whereas it was not, but was a product deficient in tomato solids consisting in part of a decomposed vegetable substance. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, namely, concentrated tomato paste.

On March 4, 1935, a plea of nolo contendere was entered on behalf of the defendant company and the court imposed a fine of $90.

M. L. Wilson, *Acting Secretary of Agriculture.*

24366. Adulteration and misbranding of chocolate-covered cherries and cordial cherries. U. S. v. the Sphinx Chocolate Corporation. Plea of guilty. Fine, $300. (F. & D. no. 33853. Sample nos. 51628–A, 51679–A, 66232–A.)

This case was based on an interstate shipment of chocolate-covered grapes which were labeled to convey the impression that they were cherries, and which were artificially colored and flavored in imitation of maraschino cherries. The case also covered a shipment of cordial cherries which contained artificial color, artificial flavor, and benzoate of soda.

On December 10, 1934, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Sphinx Chocolate Corporation, Brooklyn, N. Y., alleging shipment by said company in violation of the Food and Drugs Act, on or about October 5, 1933, from the State of New York into the State of New Jersey of a quantity of cordial cherries which were adulterated and misbranded, and on or about November 14, 1933; and January 8, 1934, from the State of New York into the States of Connecticut and New Jersey, respectively, of quantities of alleged chocolate-covered cherries which were adulterated and misbranded. The cordial cherries were labeled: "Sphinx Cordial Cherries Net Weight One Pound", together with designs showing clusters of red, ripe cherries. A portion of the alleged chocolate-covered cherries were labeled: "Cherry Blossom Chocolate Covered * * * Manufactured By Sphinx Chocolate Corporation Brooklyn, N. Y. [on end and side of box in smaller size type "Artificially Colored And Flavored]", together with designs of clusters of large, red, ripe cherries. The remainder of the alleged chocolate-covered cherries were labeled: "Cherry Blossom Chocolate Covered * * *

Manufactured By Sphinx Chocolate Corporation Brooklyn, N. Y. [in smaller type, "Imported Italian Cherries—Artificially Colored and Flavored]", together with designs of clusters of red, ripe cherries.

The cordial cherries were alleged to be adulterated in that artificial color, artificial flavor, and benzoate of soda had been substituted in part for the said article. The alleged chocolate-covered cherries were alleged to be adulterated in that grapes artificially colored and flavored in imitation of maraschino cherries had been mixed and packed with the article so as to reduce, lower, and injuriously affect its quality, and in that chocolate-covered grapes artificially colored and flavored in imitation of maraschino cherries had been substituted for chocolate-covered maraschino cherries, which the article purported to be.

Misbranding of the cordial cherries was alleged for the reason that the statement "Cordial Cherries" together with the designs of clusters of red, ripe cherries borne on the label, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser since the said statements and designs represented that the article consisted solely of cordial cherries; whereas it did not, but did consist in part of added undeclared benzoate of soda and artificial color and artificial flavor. Misbranding of the alleged chocolate-covered cherries was alleged in that the statement "Cherry * * * Chocolate Covered" with respect to a portion of the article, the statement "Cherry * * * Chocolate Covered * * * Imported Italian Cherries" with respect to the remainder, and the designs appearing on the labels of both lots of red, ripe cherries were false and misleading; and for the further reason that the article was labeled so as to deceive and mislead the purchaser in that the said statements represented that the article was chocolate-covered maraschino cherries, and in respect to a portion that it had been imported from Italy; whereas it was not chocolate-covered maraschino cherries, but consisted of grapes artificially colored and flavored in imitation of maraschino cherries, and the said portion had not been imported from Italy. Misbranding was alleged with respect to both lots for the further reason that the article was an imitation of another article and was offered for sale under the distinctive name of another article, namely, chocolate-covered maraschino cherries.

On February 6, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $300.

M. L. WILSON, *Acting Secretary of Agriculture.*

24367. Adulteration and misbranding of graham crackers. U. S. v. Superior Biscuit Co. Plea of guilty. Fine, $50 and costs. (F. & D. no. 33860. Sample nos. 45479–A, 45480–A, 45481–A.)

This case was based on a shipment of alleged milk and honey-sweetened graham crackers. Examination showed that the article contained little or no milk or honey, and that the packages contained less than the declared weight.

On December 4, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Superior Biscuit Co., a corporation, Seattle, Wash., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about January 27, 1934, from the State of Washington into the State of California, of quantities of graham crackers which were adulterated and misbranded. A portion of the article was labeled: "Oven-Fresh Milk and Honey Sweetened Graham Crackers Contents 2 Pounds Western States Grocery Co." The remainder was labeled: "Milk and Honey Sweetened Eat Superior Red Star Graham Crackers Superior Biscuit Co. U. S. A."

The article was alleged to be adulterated in that a product deficient in milk and honey and having no flavor of either milk or honey and sweetened almost entirely with substances other than milk and honey, had been substituted for graham crackers sweetened with milk and honey, which the article purported to be.

Misbranding was alleged for the reason that the statements "Contents 2 Pounds" and "Milk and Honey Sweetened," were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the packages did not contain 2 pounds of the article, but did contain a less amount, and the article was not graham crackers sweetened solely with milk and honey, but was a product deficient in milk and honey having no flavor of either milk or honey and sweetened almost entirely

with substances other than milk and honey. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was not correct.

On March 4, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $50 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

24368. Adulteration and misbranding of fish meal, and misbranding of Provegmin. U. S. v. Amos H. Ronck and Carl D. Bevis. Pleas of nolo contendere. Fines, $25. (F. & D. no. 33875. Sample nos. 68559-A, 68561-A.)

This case was based on an interstate shipment of fish meal which contained ingredients other than fish meal and less fat and more fiber than declared, also a shipment of Provegmin, a feed, which contained less protein and more fiber than declared. The labels of both products failed to bear a statement showing the quantity of the contents at the time of shipment.

On January 2, 1935, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Amos H. Ronck and Carl D. Bevis of Philadelphia, Pa., alleging shipment by said defendants in violation of the Food and Drugs Act as amended, from the State of Pennsylvania into the State of Maryland, on or about March 15, 1934, of a quantity of Provegmin which was misbranded, and on or about April 5, 1934, of a quantity of fish meal which was adulterated and misbranded. The articles were labeled in part, respectively: "100 Lbs. Net When Packed Provegmin (Open Formula) * * * Guaranteed Analysis Protein 38.00% * * * Fiber 6.00% Manufactured by Ronck & Bevis Co. * * * Philadelphia, Pa." and "Fish Ro-Be Meal * * * Analysis Fat not less than 5% Fiber not over 3% Prepared by Ronck & Bevis Co. * * * Philadelphia, Pa."

The information charged adulteration of the fish meal in that substances, namely, salt and shellfish meal, had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength, and had been substituted in part for fish meal which the article purported to be.

Misbranding of both products was alleged for the reason that the statement "Fish Meal", the design of a fish, and the further statements, "Analysis * * * Fat not less than 5%", "Fiber not over 3%", with respect to the fish meal, and the statements, "Guaranteed Analysis Protein 38.00%" and "Fiber 6.00%", with respect to the provegmin, borne on the labels, were false and misleading and for the further reason that the articles were labeled so as to deceive and mislead the purchaser since the fish meal did not consist wholly of fish meal, and contained less than 5 percent of fat and more than 3 percent of fiber, and the Provegmin contained less than 38 percent of protein and more than 6 percent of fiber. Misbranding of both products was alleged for the further reason that they were food in package form and the quantity of the contents was not plainly or conspicuously marked on the outside of the package in that the package bore no statement as to the quantity of the contents contained therein at the time of shipment and delivery for shipment but did bear a statement as to the quantity of the contents when packed.

On March 25, 1935, the defendants entered pleas of nolo contendere and were each sentenced to pay a fine of $12.50.

M. L. WILSON, *Acting Secretary of Agriculture.*

24369. Adulteration and misbranding of prepared mustard. U. S. v. Nash-Underwood, Inc. Plea of guilty. Fine, $100. (F. & D. no. 33882. Sample nos. 50766-A, 50767-A, 61233-A.)

This case was based on interstate shipments of prepared mustard which contained added mustard bran and added undeclared color.

On January 7, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Nash-Underwood, Inc., Chicago, Ill., alleging shipment by said company under the name of Nash Food Products Co., in violation of the Food and Drugs Act, on or about October 28, 1933, from the State of Illinois into the State of Alabama, and on or about November 14, 1933, from the State of Illinois into the State of Kentucky of quantities of prepared mustard which was adulterated and misbranded. A portion of the article was labeled: "Nash's Brand Mustard Contents With Bran 12 Ounces Manufactured by Nash-Underwood Inc. Chicago, Ill." The remainder

was labeled: "Nash's Brand Prepared Mustard With Added Bran Contents 16 Oz. Manufactured by Nash-Underwood, Inc. Chicago, Ill."

The article was alleged to be adulterated in that excessive mustard bran had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength and had been substituted in part for the article. Adulteration was alleged for the further reason that the article was mixed with excessive mustard bran not properly declared on the label, and colored with added undeclared color, namely, turmeric, in a manner whereby its inferiority was concealed.

Misbranding was alleged in that the statements, "Mustard" and "Prepared Mustard", borne on the respective labels in large and prominent type, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser in that the said statements represented that the article was prepared mustard, whereas it was not, but was a product containing more mustard bran than prepared mustard contains, and containing added undeclared color. Misbranding was alleged for the further reason that the article was an imitation of another article and was not labeled so as to plainly indicate that it was an imitation.

On February 21, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $100.

M. L. Wilson, *Acting Secretary of Agriculture.*

24370. Adulteration of currants. U. S. v. John McGee. Plea of guilty. Fine, $25. (F. & D. no. 33894. Sample no. 2470–B.)

Examination of the currants involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 20, 1934, the United States attorney for the Western District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court an information against John McGee, trading at Saugatuck, Mich., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about July 15, 1934, from the State of Michigan into the State of Illinois of a quantity of currants which were adulterated. The article was labeled in part: "John McGee Fennville Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On February 23, 1935, the defendant entered a plea of guilty and the court imposed a fine of $25.

M. L. Wilson, *Acting Secretary of Agriculture.*

24371. Adulteration of currants. U. S. v. Lloyd Dornan. Plea of guilty. Fine, $25. (F. & D. no. 33895. Sample no. 2328–B.)

Examination of the currants involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On November 20, 1934, the United States attorney for the Western District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Lloyd Dornan, trading at Ganges, Mich., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about July 25, 1934, from the State of Michigan into the State of Illinois, of a quantity of currants which were adulterated. The article was labeled in part: "Lloyd Dornan Fennville Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On February 23, 1935, the defendant entered a plea of guilty and the court imposed a fine of $25.

M. L. Wilson, *Acting Secretary of Agriculture.*

24372. Adulteration of butter. U. S. v. Borden's Produce Co., Inc. Plea of guilty. Fine, $100 and costs. (F. & D. no. 33897. Sample no. 56359–A.)

This case was based on an interstate shipment of butter that contained less than 80 percent of milk fat.

On January 12, 1935, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Borden's Produce Co., Inc., trading at Springfield, Mo., alleging shipment by said company in violation of the

Food and Drugs Act, on or about January 8, 1934, from the State of Missouri into the State of Louisiana, of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product deficient in milk fat in that it contained less than 80 percent of milk fat, had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat as required by the act of Congress of March 4, 1923, which the article purported to be.

On April 1, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $100 and costs.

M. L. Wilson, *Acting Secretary of Agriculture.*

24373. Adulteration of butter. U. S. v. Frank E. Clark (Clark's Creamery). Plea of guilty. Fine, $25 and costs. (F. & D. no. 33929. Sample no. 70757–A.)

This case was based on an interstate shipment of butter that contained less than 80 percent of milk fat.

On February 15, 1935, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Frank E. Clark, trading as Clark's Creamery, Albion, Nebr., alleging shipment by said defendant in violation of the Food and Drugs Act on or about June 20, 1934, from the State of Nebraska into the State of New York, of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923, which the article purported to be.

On March 7, 1935, the defendant entered a plea of guilty, and the court imposed a fine of $25 and costs.

M. L. Wilson, *Acting Secretary of Agriculture.*

24374. Adulteration of butter. U. S. v. Alma Creamery Co. Plea of guilty. Fine, $25 and costs. (F. & D. no. 33941. Sample no. 7987–A.)

This case was based on an interstate shipment of butter that contained less than 80 percent of milk fat.

On March 14, 1935, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Alma Creamery Co., a corporation, Alma, Mo., alleging shipment by said defendant in violation of the Food and Drugs Act on or about June 16, 1934, from the State of Missouri into the State of New York of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923, which the article purported to be.

On March 16, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $25 and costs.

M. L. Wilson, *Acting Secretary of Agriculture.*

24375. Adulteration of canned shrimp. U. S. v. 54 Cases of Canned Shrimp. Default decree of condemnation and destruction. (F. & D. no. 34106. Sample no. 14560–B.)

This case involved canned shrimp that was in part decomposed.

On October 19, 1934, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 54 cases of canned shrimp at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about September 1, 1934, by the St. Marys Canning Co., from St. Marys, Ga., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Taylor Brand Shrimp * * * Packed by St. Marys Canning Co. St. Marys, Georgia U. S. A."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On February 11, 1935, no claimant having appeared, judgment of condemnation was entered and destruction of the product was ordered.

M. L. Wilson, *Acting Secretary of Agriculture.*

24376. Adulteration of canned shrimp. U. S. v. 234 Cartons of Canned Shrimp. Consent decree of condemnation. Product released under bond for segregation and destruction of decomposed portion. (F. & D. no. 34108. Sample no. 17063–B.)

This case involved an interstate shipment of canned shrimp which was in part decomposed.

On October 18, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 234 cartons of canned shrimp at Perth Amboy, N. J., alleging that the article had been shipped in interstate commerce on or about September 1, 1934, by the Robinson Canning Co., Inc., from New Orleans, La., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Flagstaff Wet Shrimp * * * Distributors Greenspan Bros. Co. Perth Amboy, N. J."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On February 18, 1935, the Robinson Canning Co., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the decomposed portion be segregated and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24377. Adulteration and misbranding of ginger ale. U. S. v. 18 Cartons of Ginger Ale. Default decree of condemnation and destruction. (F. & D. no. 34116. Sample no. 11551–B.)

This case involved a shipment of a product sold as ginger ale. Examination showed that it contained undeclared caffeine and was not ginger ale but was a ginger-flavored caffeinated drink.

On or about October 20, 1934, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 cartons of ginger ale at Gulfport, Miss., alleging that the article had been shipped in interstate commerce on or about July 14, 1934, by the Buffalo Rock Co., Birmingham, Ala., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Buffalo Rock Pale Ginger Ale * * * Bottled by Buffalo Rock Company, Birmingham, Ala."

The article was alleged to be adulterated in that a substance containing caffeine had been substituted for ginger ale.

Misbranding was alleged for the reason that the statement "ginger ale", was false and misleading and tended to deceive and mislead the purchaser, and for the further reason that it was offered for sale under the distinctive name of another article.

On March 1, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24378. Adulteration of apples. U. S. v. 357 Baskets, et al., of Apples. Consent decrees of condemnation. Product released under bond, conditioned that deleterious substances be removed. (F. & D. nos. 34131, 34256, 34257, 34312. Sample nos. 4280–B, 4281–B, 4283–B, 4297–B to 4300–B, incl., 23480–B, 23481–B, 23482–B.)

Examination of the apples involved in these cases showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On September 29, October 10, and October 15, 1934, the United States attorney for the Southern District of Iowa, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 4,098 bushels of apples in various lots at Burlington, Davenport, and Ottumwa, Iowa, alleging that the article had been shipped in interstate commerce between the dates of September 14 and October 4, 1934, by Louis Cohen [one shipment in the name of the Lewis Cohen Co.], from Grafton, Ill., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deletrious ingredients, arsenic and lead, which might have rendered it harmful to health.

On October 17, 1934, the Louis Cohen Co. having appeared as claimant for the property and having consented to the entry of decrees, judgments of con-

demnation were entered and it was ordered that the apples be released under bond, conditioned that they be washed and cleansed so as to remove the poisonous substances.

M. L. Wilson, *Acting Secretary of Agriculture.*

24379. Adulteration of canned shrimp. U. S. v. 159 Cases of Canned Shrimp. Consent decree of condemnation. Product released under bond. (F. & D. no. 34156. Sample no. 11592–B.)

This case involved canned shrimp that was in part decomposed.

On October 23, 1934, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 159 cases of canned shrimp at San Francisco, Calif., alleging that the article had been shipped in interstate commerce, on or about October 5, 1934, by the Southern Shell Fish Co., Inc., from New Orleans, La., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sea Bird Brand Barataria Shrimp * * * packed by Southern Shell Fish Co. Inc., distributors, Harve, La."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On February 27, 1935, the Southern Shell Fish Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered, and it was ordered that the product be released under bond, conditioned that it should not be disposed of in violation of the Food and Drugs Act.

M. L. Wilson, *Acting Secretary of Agriculture.*

24380. Adulteration of tomato puree. U. S. v. 40½ Cases of Tomato Puree. Default decree of condemnation and destruction. (F. & D. no. 34157. Sample no. 3365–B.)

This case involved canned tomato puree that contained excessive mold.

On October 25, 1934, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40½ cases of tomato puree at Kansas City, Kans., alleging that the article had been shipped in interstate commerce on or about August 10, 1934, by the Dugger-Van Zant Packing Co., from Noblesville, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Van Zant's Tomato Puree * * * Packed by Dugger-Van Zant Packing Co., Noblesville, Ind."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On March 28, 1935, no claimant having appeared, Judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24381. Adulteration of tomato catsup and tomato puree. U. S. v. 22 Cases of Tomato Puree, et al. Default decrees of condemnation and destruction. (F. & D. nos. 34214, 34738, 34986, 35025. Sample nos. 27958–B, 27973–B, 29115–B, 3375–B.)

These cases involved tomato catsup and tomato puree that contained excessive mold.

On October 31 1934, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 cases of tomato puree at Omaha, Nebr. On January 8, and January 25, 1935, libels were filed in the Eastern District of Missouri against 1,096 cases of tomato catsup at St. Louis, Mo., and on January 25, 1935, a libel was filed in the Eastern District of Michigan against 317 cases of tomato puree at Detroit, Mich. The libels charged that the articles had been shipped in interstate commerce in various lots between the dates of September 6 and October 23, 1934, by the Shirley Canning Co., from Shirley, Ind., and that they were adulterated in violation of the Food and Drugs Act. The articles were labeled respectively: "Marco * * * Tomato Puree H. A. Marr Grocery Co. Distributors * * * Omaha Nebr."; "Highland Brand Tomato Catsup * * * Packed by the G. S. Suppiger Co., Belleville, Ill."; and "Lafer Brothers Jersey Brand Tomato Puree Packed Especially for Lafer Brothers Incorporated Detroit, Michigan."

The articles were alleged to be adulterated in that they consisted wholly or in part of decomposed vegetable substances.

On March 14, March 26, and May 8, 1935, no claimant appearing, judgments of condemnation were entered and it was ordered that the products be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24382. Adulteration of canned shrimp. U. S. v. 314 Cases, et al., of Canned Shrimp. Decree of condemnation. Product released under bond for segregation and destruction of decomposed portion. (F. & D. no. 34219. Sample nos. 14629–B, 14631–B, 14632–B.)

This case involved an interstate shipment of canned shrimp which was in part decomposed.

On October 31, 1934, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 512½ cases of canned shrimp at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about October 3, 1934, by the Southern Shell Fish Co., Inc., from New Orleans, La., and charging adulteration in violation of the Food and Drugs Act. Portions of the article were labeled: "Palm Brand [or "Antler Brand"] * * * Packed by Southern Shell Fish Co., Harvey, La." The remainder was labeled: "Sea Bird Brand * * * Southern Factors, Inc. Distributors Harvey, La."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On March 11, 1935, the Southern Shell Fish Co., Inc., having appeared as claimant for the property, judgment of condemnation was entered and it was ordered by the court that the product be released under bond, conditioned that the decomposed portion be segregated and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24383. Adulteration of canned shrimp. U. S. v. 99 Cases of Canned Shrimp. Default decree of condemnation and destruction. (F. & D. no. 34244. Sample no. 10546–B.)

This case involved an interstate shipment of canned shrimp that was in part decomposed.

On November 2, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 cases of canned shrimp at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about September 11, 1934, by the Cedar Point Canning Co., from Jacksonville, Fla., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Cedar Point Brand Wet Pack Shrimp * * * Packed by Cedar Point Canning Co. Crescent, Georgia."

The article was alleged to be adulterated in that it consisted of a decomposed animal substance.

On March 7, 1935, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24384. Adulteration of canned sardines. U. S. v. 64 Cases, et al., of Canned Sardines. Consent decrees of condemnation. Product released under bond conditioned that it be exported. (F. & D. nos. 34288, 34289, 34290. Sample nos. 17039–B, 17040–B, 17059–B.)

This case involved imported canned sardines which were found to contain excessive lead.

On November 5, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 677 cases of canned sardines at New York, N. Y., alleging that 486 cases of the product had been shipped from Lisbon, Portugal, by Domingos, Martins & Gomez, arriving at New York, N. Y., on or about January 9, 1934, that 127 cases had been shipped from Lisbon, Portugal, by Unido Industrial, Lda., arriving at New York, N. Y., on or about February 27, 1934; that 64 cases had been shipped from Lisbon, Portugal, by B. J. Borjes, arriving at New York, N. Y., on or about September 17, 1934; and that the product was adulterated in violation of the Food and Drugs Act. One lot was labeled: "Portugese Sardines in Pure Olive Oil * * * Product of Portugal * * * Clovis Trading Co. New York." The

remainder were labeled: "Sardines in Pure Olive Oil Martel Brand Product of Portugal * * * Clovis Trading Co. New York."

The article was alleged to be adulterated in that it contained an added poisonous and deleterious ingredient, lead, which might have rendered it injurious to health.

On February 27, 1935, Adolph Goldmark & Sons Corporation, New York, N. Y., claimant, having admitted the allegations of the libels and having consented to the entry of decrees, judgments of condemnation were entered and it was ordered that the product be released under bond, conditioned that it be exported to Portugal under the supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

24385. Adulteration of whisky. U. S. v. 191 Bottles of Whisky. Default decree of condemnation. (F. & D. no. 34297. Sample no. 4535–B.)

This case involved a shipment of whisky that contained flies and filth.

On November 5, 1934, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, a libel praying seizure and condemnation of 191 half-pint bottles of whisky at Washington, D. C., alleging that the article had been shipped in interstate commerce on or about September 27, 1934, by the Catonsville Dist. Co., from Catonsville, Md., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Oak Tree Straight Whiskey * * * Bottled for Catonsville Dist. Co. Catonsville, Md."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On March 22, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be disposed of in such manner as would not violate the provisions of the Federal Food and Drugs Act.

M. L. Wilson, *Acting Secretary of Agriculture.*

24386. Adulteration of canned shrimp. U. S. v. 853 Cases of Canned Shrimp. Decree of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. no. 34305. Sample no. 2257–B.)

This case involved an interstate shipment of canned shrimp which was in part decomposed.

On November 7, 1934, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 853 cases of canned shrimp at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about October 20, 1934, by the Crawford Packing Co., from Palacios, Tex., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Crawford's Medium Size Vacuum Packed Texas Shrimp Wet Pack Packed by Crawford Packing Co. Palacios, Texas."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On March 5, 1935, the Crawford Packing Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the decomposed portion be segregated and destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24387. Adulteration of apples. U. S. v. 14 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 34317. Sample no. 4491–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On September 24, 1934, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 14 bushels of Jonathan apples at Fort Scott, Kans., alleging that the article had been shipped in interstate commerce on or about September 16, 1934, by W. H. Hester, from Springdale, Ark., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous ingredients, arsenic and lead, which might have rendered it injurious to health.

On December 31, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24388. Adulteration of sesame seed. U. S. v. 5 Bags of Sesame Seed. Default decree of condemnaton and destruction. (F. & D. no. 34334. Sample no. 47–B.)

This case involved an interstate shipment of sesame seed that contained excreta, dirt, and small stones.

On November 15, 1934, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five bags of sesame seed at Denver, Colo., consigned by Sokol & Co., Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 18, 1934, from Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 10, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24389. Adulteration of canned mackerel. U. S. v. 1,020 Cartons of Canned Mackerel. Portion of product condemned and destroyed. Remainder released. (F. & D. no. 34341. Sample no. 16366–B.)

This case involved an interstate shipment of canned mackerel which was in part decomposed.

On November 12, 1934, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,020 cartons of canned mackerel at Memphis, Tenn., alleging that the article had been shipped in interstate commerce on or about October 3, 1934, by the Seaboard Packing Corporation, from Long Beach, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Dixiland Brand Mackerel."

The article was alleged to be adulterated in that it consisted in part of a decomposed animal substance.

On March 18, 1935, the Seaboard Packing Corporation having appeared as claimant for the property and having admitted the allegations of the libel with respect to a portion of the product, judgment was entered ordering that the decomposed portion be condemned and destroyed and that the remainder be released.

M. L. WILSON, *Acting Secretary of Agriculture.*

24390. Adulteration of apples. U. S. v. 478 Bushels of Apples. Decree of condemnation. Product released under bond, conditioned that deleterious substances be removed. (F. & D. no. 34356. Sample no. 3576–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 23, 1934, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 478 bushels of apples at Omaha, Nebr., alleging that the article had been shipped in interstate commerce on or about September 26 and September 27, 1934, by Meck Brazelton, from Troy, Kans., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Jonathan Grown and Packed by Meck Brazelton Troy Kansas."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On November 1, 1934, the Jerpe Cold Storage Co., Omaha, Nebr., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned

that it should not be disposed of in violation of the Food and Drugs Act. On January 10, 1935, the judgment was modified to permit and order the removal of the deleterious substances by peeling, and the destruction of the peelings.

M. L. Wilson, *Acting Secretary of Agriculture.*

24391. Adulteration of apples. U. S. v. 20 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 34363. Sample no. 23531–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 22, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 bushels of apples at Morley, Mo., alleging that the article had been shipped in interstate commerce on or about October 18, 1934, by Lewis Gillilard of Morley, Mo., from Anna, Ill., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On December 4, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24392. Adulteration of apples. U. S. v. 101 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 34365. Sample no. 23499–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 25, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture filed in the district court a libel praying seizure and condemnation of 101 bushels of apples at Jackson, Mo., alleging that the article had been shipped in interstate commerce on or about October 23, 1934, by N. A. Illers, and B. W. Aufdenberg, from Cobden, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "L. L. Casper & Sons, * * * Winesap."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On December 4, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24393. Adulteration of apples. U. S. v. 20 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 34366. Sample no. 23535–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 25, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 bushels of apples at Jackson, Mo., alleging that the article had been shipped in interstate commerce on or about October 23, 1934, by C. R. Query, from Anna, Ill., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On December 4, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

24394. Adulteration of apples. U. S. v. 38 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 34367. Sample no. 2024–B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 5, 1934, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district

court a libel praying seizure and condemnation of 38 bushels of apples at Marion, Ind., alleging that the article had been shipped in interstate commerce on or about September 23, 1934, by John R. Bowman, from Watervliet, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On March 20, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24395. Misbranding of canned black-eyed peas and canned red beans. U. S. v. Thrift Packing Co. Plea of guilty. Fine, $25. (F. & D. no. 33877. Sample nos. 63795–A, 63796–A.)

This case was based on an interstate shipment of short-weight canned goods.

On January 10, 1935, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Thrift Packing Co., a corporation, Dallas, Tex., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about September 8, 1933, from the State of Texas into the State of Oklahoma, of quantities of canned black-eyed peas and canned red beans which were misbranded. The articles were labeled, respectively: "Thrift Brand Net Wt. 15½ oz. * * * Black-Eyed Peas Thrift Packing Co. Dallas, Texas"; "Thrift Brand Net Weight 1 Pound * * * Red Beans Thrift Packing Co. Dallas, Texas."

The articles were alleged to be misbranded in that the statements, "Net Wt. 15½ oz." and "Net Weight 1 Pound", borne on the labels, were false and misleading, and for the further reason that the articles were labeled so as to deceive and mislead the purchaser, since the cans contained less than so declared. Misbranding was alleged for the further reason that the articles were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On January 11, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $25.

M. L. WILSON, *Acting Secretary of Agriculture.*

24396. Adulteration of canned shrimp. U. S. v. 196 Cases of Canned Shrimp. Default decree of condemnation and destruction. (F. & D. no. 34378. Sample no. 58–B.)

This case involved an interstate shipment of canned shrimp which was found to be in part decomposed.

On November 28, 1934, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 196 cases of canned shrimp at Denver, Colo., consigned by the Biloxi Canning & Packing Co., Biloxi, Miss., alleging that the article had been shipped in interstate commerce on or about September 17, 1934, from Biloxi, Miss., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Silver Brand Shrimp. * * * Packed for and fully guaranteed by the Morey Mercantile Co., Colorado."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

On February 15, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24397. Adulteration of canned spinach. U. S. v. 48 Cases of Canned Spinach. Default decree of condemnation and destruction. (F. & D. no. 34379. Sample no. 20148–B.)

This case involved an interstate shipment of canned spinach, samples of which were found to contain worms, cocoons, beetles, and other extraneous matter.

On November 15, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 48 cases of canned spinach at Tacoma, Wash., alleging that the article had been shipped

in interstate commerce on or about October 21, 1933, by Wm. Silver & Co., of Aberdeen, Md., from Baltimore, Md., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Foote's Best Brand * * * Packed by D. E. Foote & Co., Inc., Baltimore, Md."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On March 2, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24398. Adulteration of walnut meats. U. S. v. 15 Cases of Walnut Meats. Default decree of condemnation and destruction. (F. & D. no. 34384. Sample no. 8643–B.)

This case involved an interstate shipment of walnut meats which were insect-infested, moldy, and rancid.

On November 16, 1934, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cases of walnut meats at Billings, Mont., alleging that the article had been shipped in interstate commerce on or about October 20, 1934, by Torn & Glasser, from Los Angeles, Calif., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly and in part of a filthy, decomposed, or putrid vegetable substance.

On February 19, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24399. Misbranding of salad oil. U. S. v. 20 Cans of Salad Oil. Default decree of condemnation and destruction. (F. & D. no. 34386. Sample no. 21051–B.)

This case involved a product consisting of a mixture of oils containing some olive oil, some cottonseed oil, and probably soybean oil or corn oil, or both, which was labeled to convey the impression that it was Italian olive oil.

On November 19, 1934, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 cans of salad oil at Scranton, Pa., alleging that the article had been shipped in interstate commerce on or about September 14, 1934, by the Venice Importing Co., from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the following statements appearing on the can label, "Olio Marca Romanelle. Ottanta Per Cento Olio Puro Vegetale Venti Per Cento Olio Di Oliva Puro Importato. Attenzione La eccezionale ricchezza e l'aroma superiore dell'Olio Romanelle non è accidentale. Questo è il risultato di una scientifica scelta nella preparazione degli olii. Per anni la direzione di questa compagnia ha fatto uno studio accurato per ottenere un ottimo gusto in modo che ciascuno recipiente possa ricevere una perfezionata ed esatta porzione di vitamine e di valore nutritivo in giusta proporzione. La Qualità e l'aroma piuttosto che la quantità di produzione sono stati sempre la mira di questa compagnia. Venice Importing Co. New York Importers & Packers", were misleading and tended to deceive and mislead the purchaser, since they created the impression that the article was Italian olive oil, whereas it was not, and this impression was not corrected by the subsequent statements on the label, "Eighty Per Cent Pure Vegetable Oil, Twenty Per Cent Pure Imported Olive Oil", in view of the marked prominence given to the word "Olio." Misbranding was alleged for the further reason that the article purported to be a foreign product when not so.

On February 18, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24400. Adulteration and misbranding of butter. U. S. v. Newport Creamery Co. Plea of guilty. Fine, $80. (F. & D. no. 33909. Sample nos. 73401–A, 73445–A, 73458–A, 73476–A.)

This case was based on interstate shipments of butter that contained less than 80 percent of milk fat.

On February 20, 1935, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in

the district court an information against the Newport Creamery Co., a corporation, Newport, Wash., alleging shipment by said company in violation of the Food and Drugs Act, in various consignments on or about April 30, May 31, June 19, and June 28, 1934, from the State of Washington into the State of Idaho, of quantities of butter which was adulterated and misbranded. The article was labeled in part: "Mountain Rose Pure Cream Butter Newport Creamery Company Newport, Washington."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat as required by the act of Congress of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the statement "butter", borne on the label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the said statement represented that the article was butter, a product containing not less than 80 percent by weight of milk fat as defined by law; whereas it was not butter, since it contained less than 80 percent by weight of milk fat.

On March 16, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of $80.

M. L. Wilson, *Acting Secretary of Agriculture.*

INDEX TO NOTICES OF JUDGMENT 24350–24400

[1] Contains an opinion of the court.

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